

CONTRACTING PARTIES

Third Session

FOURTH REPORT OF WORKING PARTY 2 ON ARTICLE XVIII (REVISED)

As approved by the CONTRACTING PARTIES¹

1. Working Party 2 on Article XVIII was appointed at the fourth meeting of the Session on 14 April 1949, and was given the following terms of reference:

- "(a) to examine the statements submitted by contracting parties in support of measures notified under paragraph 11 of Article XVIII and the objections to these measures lodged by contracting parties which consider their interests to be affected;
- (b) to take account of the points raised in the discussions at this session;
- (c) to report thereon to the CONTRACTING PARTIES."

At the fourteenth meeting the application of Ceylon for the adoption of new measures under paragraph 7 of Article XVIII was referred to the Working Party and this is still under consideration.

2. The Working Party consisted of representatives of Australia, Canada, Chile, Cuba, France, India, the Netherlands, Syria, the United Kingdom and the United States, under the chairmanship of Mr. C.L. HEWITT (Australia). Representatives of Belgium, Ceylon, Lebanon and Pakistan attended meetings and, by invitation, took part in the discussions when matters of interest to them were considered. Observers from other delegations, including those of acceding governments, were also present at a number of meetings.

3. The Working Party has held 53 meetings and has submitted three interim reports on matters which called for urgent consideration by the CONTRACTING PARTIES, namely:

- 1. The Report on Notification by Acceding Governments (GATT/CP.3/21).

1. (GATT/CP.3/SR.39 and 40)

2. The Report on Extension of the Last Dates for Submission of Statements and Lodging of Objections (GATT/CP.3/29 & Corr.1).
3. The Report on the Date of Decision on the Ceylon Application (GATT/CP.3/36).

The Working Party also submitted to the CONTRACTING PARTIES and circulated to acceding governments a memorandum of guidance for notification of existing measures under paragraph 11 of Article XVIII (GATT/CP.3/34).

4. This Report deals with other matters which were referred to the Working Party, but not with the Ceylon application.

5. The following sections of the report deal separately with the measures notified by present contracting parties under paragraph 11 of Article XVIII (Sections A to G); procedures between sessions for existing and new measures (Section H); and procedures under Article XVIII with respect to measures permitted by the Protocols of Provisional Application and Accession (Section I). Appended to the Report are a formal decision which the Working Party recommends be adopted, and annexes which are referred to in the text of the report.

SECTION A: THE MEASURES NOTIFIED BY THE GOVERNMENT OF THE NETHERLANDS
IN RESPECT OF INDONESIA

6. The Working Party considered the telegram of 31 December 1948 from the Netherlands Government to the Chairman of the CONTRACTING PARTIES (GATT/CP.3/1/Add.1) and the statement by the Netherlands representative at the third meeting of the CONTRACTING PARTIES concerning the measures notified by that Government in respect of Indonesia.

7. The Working Party took note of the withdrawal of the notification, and agreed with the representative of the Netherlands that if and when the measures ceased to be applied under Article XII, it would be open to the Netherlands Government to apply to the CONTRACTING PARTIES for consideration of these measures under the provisions of Article XVIII relating to new measures.

SECTION B: THE MEASURES NOTIFIED BY THE GOVERNMENT OF CHILE

8. The Working Party considered the statement submitted by the Government of Chile (GATT/CP.3/1/Add.3) and a further oral statement made by the representative of Chile. The Working Party noted the statement of the representative of Chile that:

- (a) the measures notified under paragraph 11 of Article XVIII were mostly proclaimed by decisions or decrees during the war, particularly towards its close, manifestly for the establishment and development of domestic industries and branches of agriculture. The protective measures consisted of
 - (i) the fixing of import quotas, and
 - (ii) the withholding of import licences;
- (b) in recent years, measures to safeguard the balance of payments, which first had been applied long before the institution of the protective measures, had been extended and there was now a complete control over the products which were permitted to be imported; and
- (c) consequently, all measures previously adopted for the protection of domestic industry had been suspended and were superseded in operation by measures taken to safeguard the balance of payments.

9. It was the opinion of the Working Party that since the measures currently in force in Chile for the safeguard of the balance of payments applied to the products in respect of which protective measures had been notified under paragraph 11 of Article XVIII, and since the measures were being applied under the provisions of Article XII of the Agreement, it was not necessary for the CONTRACTING PARTIES to examine and give a determination concerning the maintenance of the measures under the provisions of paragraph 12 of Article XVIII. Consequently, the Working Party did not examine the eligibility of these measures under Article XVIII. The Working Party also noted that if, and when, these measures ceased to be applied under Article VII, it would be open to the Chilean Government to notify the CONTRACTING PARTIES under

paragraph 6 of Article XVIII and apply for consideration under paragraph 7 or 8 of that Article of measures for the purpose of promoting economic development or reconstruction. At that time, when considering any measures notified in these circumstances, the CONTRACTING PARTIES would have regard to all relevant facts. It would be open to the Chilean Government, at that time, to refer to the fact that in the past the measures had been maintained originally for the purpose of development. Moreover, the Chilean Government would be free to apply in accordance with paragraph 6 of Article XVIII in advance of the date at which the measures ceased to be applied under Article XII.

SECTION C: THE MEASURE NOTIFIED BY THE GOVERNMENT OF THE UNITED KINGDOM IN RESPECT OF MAURITIUS

10. After discussion the Working Party agreed that Mauritius's import restriction on tea, in respect of which a statement (annex to GATT/CP.3/1) had been submitted by the United Kingdom, was eligible for consideration under Article XVIII. Subsequently, however, the United Kingdom representative stated that the Government of Mauritius, on the advice of the United Kingdom Government, had decided that the purpose of the measure could equally well be met by tariff protection, and that the restriction would be withdrawn, with effect from 1 January 1950, which was the earliest date by which, in view of the legislative procedure and programme of Mauritius, the tariff rates could be modified (cf. GATT/CP.3/32 and Corr.1).

11. The Working Party accepted this statement, and asked the United Kingdom delegation to convey its thanks to the Mauritius Government for the action it had taken. In accordance with the provisions of paragraph 14 of Article XVIII, the Working Party recommends that the CONTRACTING PARTIES approve the maintenance of the measure until 1 January 1950 in order to enable the Customs duty to be modified.

SECTION D: THE MEASURE NOTIFIED BY THE GOVERNMENT OF THE UNITED KINGDOM
IN RESPECT OF NORTHERN RHODESIA

12. The Working Party examined the statement (Annex to GATT/CP.3/1) submitted by the United Kingdom on behalf of Northern Rhodesia in respect of the import prohibition on "filled" soap (i.e. soap with a free fatty acid content of not less than 45 per cent and not more than 62 per cent.)

13. In considering the eligibility of the measure the Working Party agreed that:

(a) it had been notified in accordance with paragraph 11 of Article XVIII, as modified in respect of Northern Rhodesia by the decision of the CONTRACTING PARTIES at their second session;

(b) it related to an item on which no obligation had been assumed by Northern Rhodesia under Article II of the Agreement.

14. The Working Party found some difficulty, however, in determining that the measure met the criteria of non-discrimination and development.

15. As regards non-discrimination the representative of the United Kingdom said that the import of "filled" soap was prohibited only from the Belgian Congo, and (by a separate agreement between the two governments) from Southern Rhodesia. But the discrimination was apparent rather than real since these two countries were the only potential suppliers of the commodity to Northern Rhodesia. However, the Government of Northern Rhodesia were prepared to make the measure formally as well as actually non-discriminatory, if the CONTRACTING PARTIES so desired.

16. It was suggested by some members of the Working Party that the development aspect of the measure was subordinate to the purpose of protection against competition from the Belgian Congo. The United Kingdom representative explained that there had been originally three purposes for the measure. The first (which was more significant during the war than at the present time) was to ensure supplies of soap for Northern Rhodesia. The second was the development of the industry which, although small, was valuable in view of Northern Rhodesia's need to diversify her economy, which was far too dependent on the mining industry. The third reason was the need to protect industry against exports of soap from the Belgian Congo in view of certain exceptional circumstances. The export of low-grade palm oil (from which "filled" soap was made) from the Belgian Congo was prohibited although the Belgian Government permitted its use for the manufacture of "filled" soap by domestic producers. Northern

Rhodesian manufacturers, not having access to the same cheap raw material were unable to compete on equal terms with the Belgian Congo soap manufacturers, and the price differential between the products of the two countries, after allowing for a customs duty of 25 per cent in Northern Rhodesia, was considerable.

17. The Belgian representative stated that, in view of (1) the present price of high grade oil, (2) the fact that the Belgian Congo exports raw materials containing 7.5% of free fatty acid, similar, therefore, to low grade oil, and (3) the Rhodesian customs duty of 25%, the fact that the Rhodesian industry was not able to obtain from the Belgian Congo palm oil with 8.5% free fatty acid content was not sufficient to establish that this industry could not compete on equal terms with the Congo soap industry.

18. The Working Party was informed that on the initiative of the United Kingdom, the delegations of Belgium and the United Kingdom, during the course of the present session, discussed the possibility of negotiating an arrangement to meet the third purpose of the measure referred to in paragraph 16 above, and that these discussions had no successful results. Statements by both delegations in relation to those discussions are contained in letters annexed to the Report (Annex D).

19. The United Kingdom representative stated that, while regretting the failure to negotiate an arrangement with the Belgian Government, in view of the doubts expressed about the adequacy of the development aspect of the measure in terms of Article XVIII the United Kingdom Government, after consultation with the Government of Northern Rhodesia, had decided to withdraw the application. The measure would accordingly be withdrawn and some other means of protection consistent with the Agreement would be adopted. Since, however, it was not yet known what form such protection should most suitably take, it was necessary that the Government of Northern Rhodesia should have an adequate time to change its arrangements. The United Kingdom representative therefore asked that a period of nine months should be allowed for the withdrawal of the measure.

20. The Working Party took note of the statement that the measure would be withdrawn and agreed to recommend to the CONTRACTING PARTIES, in the light of all the circumstances, that the measure might be maintained for a period of nine months from the date of a decision by the CONTRACTING PARTIES.

SECTION E: THE MEASURE NOTIFIED BY THE GOVERNMENT OF CUBA.

21. The Working Party examined the statement submitted by the Government of Cuba (GATT/CP.3/1/Add.4). A considerable amount of information was added during the discussion, when oral and written supplementary statements were presented by the representative of Cuba. Certain inadequacies appeared in the original statement, and a revised statement (GATT/CP.3/1/Add.4/Rev.1) was submitted by the Cuban delegation to the CONTRACTING PARTIES for their consideration.

22. The Working Party noted that the measure consisted of the fixing of an annual import quota for the fibres of henequen and sisal (Ex Cuban Customs Tariff Item 129-A "abaca, pita and other hard fibres, raw or combed") equivalent to the quantity imported into Cuba in the year 1936 and that each producing country received an individual quota equal to its share in the import of the product into Cuba in that representative year.

23. In considering the eligibility of the measure, the Working Party established that:

- (a) the measure was duly notified to the CONTRACTING PARTIES in accordance with paragraph 11 of Article XVIII, and
- (b) the item was not one in respect of which Cuba had assumed an obligation under Article II of the Agreement.

24. The Working Party noted that although paragraph 4 of the Decree of 23 June 1939 provided that the quota should not apply to the United States, the measure was not discriminatory in its effect, because the United States had not been a producer of the products in question. The provision in the Decree was made in accordance with the terms of the trade agreement between the two countries concerned, which had been suspended upon the provisional application of the General Agreement.

25. To eliminate the formal element of discrimination, the Cuban delegation stated that the Cuban Government would, as soon as possible, take steps to eliminate the provision from the Decree. The Working Party, therefore, proceeded to examine the developmental nature of the measure.

26. The Cuban representative brought to the notice of the Working Party the fact that positive plans had been evolved for the development of the production of henequen and sisal fibres, particularly the latter. The objective of these plans was to expand the production ultimately to 40,000,000 pounds per annum with 20,000 hectares under cultivation. In order to make the industrial products more competitive in the world market plans have been made to encourage the increased production of the higher grades of the fibres and to induce manufacturers to use a larger proportion of these higher grades, especially sisal, in their production. Moreover, improvements in the quality of the fibres and in the method of cultivation had also been undertaken with a view to improving the marketability of the fibres.

27. The Working Party studied the statistical and other information presented by the Cuban delegation concerning the future consumption, export potentialities and the plans for the expansion of agricultural production. In studying the nature of the measure in the light of these data, the Working Party recognized that the development aspect of the measure was sufficiently important to establish its eligibility under the relevant provisions of Article XVIII.

28. The Cuban representative stated that the application was made under the provisions of sub-paragraph 8 (b) of the Article for a release from the obligations under Article XI of the Agreement. The Working Party considered the application to be in accordance with the provisions of sub-paragraph 8 (b). As no contracting party raised an objection to the measure as a party materially affected, the Working Party concluded that a release, if granted, should be under sub-paragraph 8 (b) (i) of the Article.

29. The Working Party also discussed with the representative of Cuba the possibility of adopting a measure permitted under the Agreement to replace the quantitative restriction on imports. The Cuban representative stated that the removal of the present measure could not be undertaken until the branch of agriculture had been developed to a degree where it would be able to compete in the world fibre market, and until the effect of a tariff had been sufficiently studied and tested. The Cuban representative maintained that in

order to sustain the confidence of investors and planters and to ensure the continued development of the branch of agriculture, the production should be protected from external competition for a period of 10 years, during the first part of which the use of a quantitative restriction would be essential.

30. The Working Party, therefore, in agreement with the representative of Cuba, recommends that the CONTRACTING PARTIES grant a release under the provisions of Article XVIII for a period of five years on condition that the formal discrimination contained in paragraph 4 of Decree No. 1693 of 23 June 1939 be removed by the issue of a new decree as soon as possible.

SECTION F: THE MEASURE NOTIFIED BY THE GOVERNMENT OF INDIA.

31. The Working Party examined the statement submitted by the Government of India (GATT/CP.3/1/Add.2) and took note of the discussions on the measure at the third meeting of the CONTRACTING PARTIES (cf. GATT/CP.3/SR.3 and Corr.2). The representative of India also supplied certain supplementary information in response to requests made by other members of the Working Party.

32. The Working Party noted that the measure involved the prohibition of imports of grinding wheels and segments (Indian Tariff Item No. 71(8)) except under licence. However, since the intention was to restrict the importation of grinding wheels only of the types, qualities and sizes which could be produced locally, licences were granted freely in those cases where the goods to be imported were of the types, qualities and sizes which were not produced locally. The measure, therefore, related more precisely only to Ex Item 71(8): grinding wheels of all types, qualities and sizes from 1/4" to 36" diameter with the exception of rubber bonded and diamond wheels.

33. It was also noted that as from 4 December 1948, on the imposition of a protective tariff duty, import of this product has been placed on the open general licence, which permits the unrestricted import of this product into India under duty. The Working Party first studied the question whether in view of this action, taken prior to a decision being given by the CONTRACTING PARTIES, the measure should still be accepted as eligible for consideration under paragraph 11 of Article XVIII. The representative of India pointed out that the experiment with tariff protection was carried out on the recommendation of the Indian Tariff Board with a view to testing the market conditions and to seeing whether it was possible to dispense with the measure in the present state of economic development. The temporary relaxation of the measure was therefore in full accord with the spirit of the General Agreement. The Working Party agreed with the representative of India that the temporary change in the administration of the measure did not fundamentally affect the status of the measure. In view of the fact

that the measure was in force on September 1, 1947, the date specified in paragraph 11, the Working Party was of the opinion that it should be examined as an existing measure under the provisions of the Article.

34. In examining the measure under paragraph 11, the Working Party established that:

- (a) the measure was in force on September 1, 1947 and notification had been given to the CONTRACTING PARTIES before October 10, 1947;
- (b) the measure was non-discriminatory in nature; and
- (c) India had not assumed an obligation under Article II of the Agreement in respect of grinding wheels.
- (d) the purpose of the measure was the development of the industry
- (e) the measure was not otherwise permitted by the Agreement.

35. The Representative of India requested that the application, which was for a release from the obligations under Article XI of the Agreement, be considered under sub-paragraph 7 (a) (i) of Article XVIII, the Working Party was informed that the grinding wheels industry was established in March 1939; that during the war abnormal conditions had deprived the country of supplies from abroad of the product in question; that in consequence, governmental requirements of the product were met by the domestic production up to the limit of the expanding capacity of the industry; and that furthermore, the Government had encouraged the production by permitting manufacturers to import synthetic abrasive grains free of customs duty. The abnormal conditions continued to exist in the post-war period up till the middle of 1947. At that juncture, market and supply conditions were so changed as to threaten the existence of the industry, and the measure was required to assure its continued existence and further development. In the light of this information the Working Party was satisfied that the measure fulfilled the conditions of sub-paragraph 7 (a) (i).

36. Sub-paragraph 7 (a) requires the CONTRACTING PARTIES to grant a release pursuant to its provisions for a specified period.

The Working Party heard the views of the representative of India, who proposed a period of 10 years, and those of other members of the Working Party, who suggested that a much shorter period would be sufficient in this instance. The Indian representative stated, in support of his suggestion, that a release for a long period was needed in order to assure producers of the domestic market and to induce further investment for the development, which would help to lower the costs of production and eventually to make the product competitive on the Indian market with foreign products. Some members of the Working Party felt, that the past expansion of the industry from 111 tons per annum in 1943 to 258 tons in 1947, suggested that a much shorter period than that proposed by the Indian delegation would suffice for the expansion of the industry to the estimated capacity of 400 to 450 tons per annum, which would be sufficient to meet the present home demand, and that in any case the use of an import prohibition up to the stage where the industry was capable of supplying the whole home demand was not necessarily justified.

37. On the whole the Working Party felt that, at present, when the restriction was not enforced, the direct effect of the measure on the industry was not clear and that the Working Party would not be justified in recommending a long period of release without more definite information relating to the likely period required to protect the industry in the light of the plans for expansion. The representative of India stated that until there was some assurance that these measures could be utilised the industry was hesitant in formulating any plans for further expansion beyond the present plant capacity. The problem before the Working Party was therefore that on the one hand any period of release that was recommended could not be based on any positive information concerning expansion. On the other hand, without the approval of the CONTRACTING PARTIES to use the measure, if it were required, no expansion would be contemplated.

38. Moreover, as it was the intention of the Indian Government to enforce the measure again only in the event that the present protective tariff should fail to afford the degree of protection needed for the industry, it was not known at present whether, and when, the measure would be required for the purpose.

39. The Working Party, after careful consideration and taking into account all the circumstances, agreed to recommend that:

- (a) the Government of India be allowed to re-impose the existing measure on "Ex Item 71 (8): grinding wheels of all types, qualities and sizes from 1/4" to 36" diameter with the exception of rubber bonded and diamond wheels" at any time within three years from the date of the decision; and
- (b) the period for which the measure could be maintained would be decided by the CONTRACTING PARTIES, in accordance with paragraph 7 of Article XVIII, at the first session subsequent to the re-imposition of the measure, in the light of the facts relating to the industry, established by the Government of India at that time.

SECTION G: THE MEASURES NOTIFIED BY THE GOVERNMENTS OF LEBANON
AND SYRIA

40. The Working Party first examined the statement submitted by the governments of Lebanon and Syria (GATT/CP.3/L/Add.5) as a whole and heard an oral statement by the representative of Syria in support of the measures in general. The Working Party noted that, whilst control was generally exercised by means of import licences, the import restrictions differed in degree and in the methods of their implementation with respect to different items. They involved not only the fixing of quotas or total import prohibition, but also monopoly systems in the case of certain products. The Syrian representative stated that it was from the provisions of Article XI of the General Agreement that releases were sought under paragraph 12 of Article XVIII, and suggested that in the examination of the measures the provisions of paragraph 8(b) would be relevant. The Syrian representative also stated that the release were sought for a period of 5 years with respect to all items.

41. The representative of Syria, under instructions from the two Governments concerned, withdrew a number of items from the notification under Article XVIII. The Syrian representative informed the Working Party that, without prejudice to the future right of the Governments of Lebanon and Syria to apply under paragraph 7 or 8 of Article XVIII, the import of these items was now being controlled under Article XII of the Agreement.

42. The Working Party had had for its consideration the list of products contained in Annex B to GATT/CP.2/38/Rev.1. The following items remained for its consideration after the withdrawal referred to above:

55 & 59 Oranges, lemons and similar fruits; and apples,
pears and quinces

Ex 68 Wheat

71 Barley

75(a) Wheat flour

122 Sugar

132 Chocolate and articles made of chocolate

137 to 144	Preserves of vegetables or fruits
449 to 461	Fabrics of pure silk
192	Cement
470 to 492	Fabrics of artificial silk (except 477 and 486a)
518	Raw Cotton
522 to 524	Cotton yarn or thread (except 522 b.4)
527 to 540	Cotton fabrics
580 to 583	Hosiery (except 580 A a and b, and 581 A)
663 to 681	Glass and glass ware

A precise description of these products, together with the tariff item numbers and descriptions under which these products fall, is contained in Annex B to this report.

43. The Working Party examined the eligibility of each of these measures. However, the measures had certain common features, which enabled the Working Party to reach the following conclusions with respect to all of them on the basis of the information submitted:

- (a) the measures existed on 1 September 1947 and notification had been duly given to the CONTRACTING PARTIES before 10 October 1947 of these measures;
- (b) the measures were non-discriminatory in nature;
- (c) the measures did not affect any item in respect of which Lebanon and Syria had assumed an obligation under Article II of the General Agreement.

44. There has been circulated to the CONTRACTING PARTIES a compilation of the information concerning these items (GATT/CP.3/WP.2/9) supplied by the delegations of Syria and Lebanon in the course of the examination of the measures by the Working Party.

45. The considerations of the Working Party on the nature of the measures and their purposes with particular reference to the establishment, development and reconstruction of the industries concerned are set out below together with its final recommendations for each item.

(A) Citrus and other fruits

46. The Working Party noted that the import control on these products was carried out by means of the withholding of import licences according to crop conditions and variation in the home demand. It was

noted in the statement made by the Syrian representative that a large scale irrigation programme had been set up before the war by the government of Lebanon, aiming at increasing the area of land under cultivation and improving both the quality and the quantity of the output. Implementation of the programme, however, had been delayed by various circumstances, including those caused by the war. Furthermore, the inherent high costs of production of such fruits as apples, pears and quinces due to the type of land used, was further increased by the rise in labour costs and rendered domestic supply incapable of competing with imported fruits, which threatened the branch of agriculture. The government of Lebanon therefore intended to modernise the equipment and method of cultivation with a view to lowering the costs of production and to developing the branch of agriculture to the point where it could compete with foreign products. In Syria the same situation obtained, but here the activities of extending the irrigation system and increasing the number of plant nurseries and agricultural institutions were supplemented by the establishment of refrigeration industries.

47. With respect to citrus fruits, the representative of Syria also pointed out that in the years between 1938 and 1947, the plantations had suffered serious war damage. The military operations in 1941 took place precisely in that portion of the Lebanese coastal area where citrus fruit growing was most flourishing before 1939. The reconstruction of devastated orchards was therefore one of the chief factors to be taken into consideration with respect to citrus fruit production.

48. The Working Party came to the conclusion that the facts regarding the development of such fruits in general and the reconstruction of citrus fruit orchards were sufficient to make the measure eligible under paragraph 11 of Article XVIII.

49. The Working Party agreed to recommend that a release be granted under paragraph 12 of Article XVIII for the maintenance of the measure for a period of five years.

(B) Wheat

50. The Working Party noted that the control of wheat at the time of notification took the form of a state monopoly, with the

administration in charge of the monopoly fixing the quotas for imports and exports on the basis of the production situation. When the monopoly was abolished in March 1949, the licensing system remained in force and became the sole means of effecting the control, the quotas being now fixed by the Ministry of National Economy.

51. The representatives of Syria and Lebanon brought to the attention of the Working Party the developmental features of wheat production. Specifically, parts of the Jezireh area were brought under cultivation and sown to cereals and cotton in 1937, and development of this area was continued throughout the war with the adoption of up-to-date methods of cultivation and modern equipment. 1,500 tons of agricultural machinery were shipped to this area alone in 1948, and the use of chemical fertilizers was gradually promoted. The Working Party was informed that the decline in the yield in 1947 was due to unfavourable weather conditions and that production had been considerably greater in 1948 and 1949, although no precise figures were yet available. A sharp fall in the world price of wheat had occurred since the end of the war.

52. The Working Party agreed that the measure was eligible under paragraph 11, and agreed to recommend that a release be granted under paragraph 12 of Article XVIII for the maintenance of the measure for a period of five years.

(C) Barley

53. The import restriction on barley was effected by means of a monopoly which was subsequently abolished and superseded by the use of the licensing system, as in the case of wheat. In examining this item the Working Party felt that the information presented by the delegations concerned was inadequate. The development nature was not borne out by the figures relating to the area and yield in recent years, nor has it been completely substantiated by any other evidence. The Working Party was informed that the decline in the yield in 1947 was due to unfavourable weather conditions and that production has been greater in 1948 and 1949. World price of barley had also fallen considerably since the end of the war. The representative of Syria stated that the need for the maintenance of the measure was imperative for the time being and that the lack of

substantial information was due to administrative difficulties, resulting from the abnormal conditions prevailing in the two countries.

54. The Working Party considered that a prima facie case only had been made out in respect of the development aspect of the measure and felt unable to recommend a release for the five years as requested. The Working Party accordingly recommends that a release be granted for the maintenance of the measure for a shorter period of two years only, on the understanding that it would be open to the Governments of Lebanon and Syria to make a further application before the end of that period, with the support of more complete information and in the light of any further progress in the development of the branch of agriculture at that time. The representative of Syria agreed to this recommendation.

(D) Wheat Flour

55. The Working Party considered the quantitative restriction on wheat flour in conjunction with the measure relating to wheat. It was the view of the Working Party that, since the measure relating to wheat had been justified, to make that restriction effective it would be necessary for the two governments to restrict imports of wheat flour, as it was felt that the free importation of wheat flour into the countries concerned would have the same effect on wheat growing as the unrestricted inflow of the agricultural product itself. The measure relating to the import restriction on flour was therefore eligible for consideration because of the development of wheat production.

56. The Working Party therefore recommends that a release be granted under paragraph 12 of Article XVIII for the maintenance of the measure for a period of five years.

(E) Sugar

57. The Working Party noted that crystallized, loaf and lump sugar was controlled in Syria by the monopoly law and imported by the State under contract to be sold on the domestic market at cost price plus a variable tax. In Lebanon, however, the only formality required for the import of sugar was an import licence. It was understood that the monopoly system in Syria might be replaced by a

quota system in the near future which would not be more restrictive of imports than the present system.

58. The representative of Syria stated that whereas at the beginning of the war there had been only one sugar mill, in 1949 there were three sugar mills. The prospects for expansion were favourable as the present production covered only 30% of domestic consumption, and since there were vast areas in Syria suitable for the growing of beet and sugar cane.

59. In view of the expansion and anticipated expansion of the industry, the Working Party agreed that the measure was eligible under paragraph 11. The Working Party recommends that a release be granted under paragraph 12 of Article XVIII for the maintenance of the measure for a period of five years.

(F) Chocolate and Articles Made of Chocolate

60. The Working Party noted that the industry had been set up after the first world war. Although there were increases in output of chocolate in Lebanon, no figures were supplied to indicate expansion of the industry in Syria. It was not clear that the industry was particularly suitable for development in these countries or that much further expansion could be achieved. However, the Working Party noted that experiments were being made with certain types of chocolate in two new factories at Beirut and Damascus.

61. The Working Party considered that a prima facie case only had been made out in respect of the development aspect of the measure, and felt unable to recommend a release for the proposed five year period. The Working Party, accordingly, recommends that a release be granted for a period of two years, on the understanding that it would be open to the Government of Lebanon and Syria to make a further application with the support of more complete information and in the light of any further progress in the development of the industry at that time. This recommendation was agreeable to the representative of Syria.

62. The representative of the United States, however, did not participate in the decision.

(G) Preserves of vegetables and fruits

63. The Working Party was informed that the import restriction on the products of the industry was necessary more for the reconstruction of

the industry than for its development. During the last war development of the industry had been on an exceptional scale owing to the presence of allied troops in the Middle East and prevailing difficulties in obtaining supplies from abroad. During the peak period production had been three times as high as the pre-war level. Machinery in the industry was overworked while replacement was impossible and maintenance inadequate. Partly as a result of other factors increasing the costs of production, post-war production had fallen considerably below the pre-war level.

64. The situation caused the two Governments in 1946 to intervene and impose the measure in order to restore production to the pre-war level. Plans for reconstruction had been adopted and machinery was being bought from abroad and installed. It was the belief of both the Governments concerned that once the re-equipment of the industry was completed, output would be increased and the costs of production in the industry would be brought down to a competitive level, thus making the measure unnecessary.

65. In view of the evident need for reconstruction of the industry, the Working Party agreed that the measure was eligible under paragraph 11 of Article XVIII. The working Party also took note of the statement by the representative of Syria that the two Governments would as soon as practicable replace the measure with tariff protection. With this understanding, the Working Party recommends that a release be granted under paragraph 12 of Article XVIII for the maintenance of the measure for a period of five years.

(H) Cement

66. The representative of Syria asserted that the industry was being developed and the measure was necessary to ensure to it an adequate domestic market. In this connection the Syrian representative referred to the establishment of a new factory in Aleppo, which was almost ready to begin production. Capital was also being invested in the established factories for the renewal of obsolete equipment in order to raise production. The extensive construction plans of the country created for the industry a high demand for cement which, but for the present price and cost differentials, would automatically stimulate the expansion and promote the development of the industry. In addition

to the general inflation and the high costs of living, an important factor in present costs was the high prices of imported fuel oil used by the industry. It was anticipated that when new pipe-line supplies were available locally, these costs would be substantially reduced.

67. The representative of Syria further stated that the Governments would remove the quantitative restriction as soon as possible. He agreed that a period of three years would be acceptable, stating that the Governments of Lebanon and Syria would remove the measure before that time if the causes of the high costs referred to above had been corrected within the period, and that, on the other hand, the Governments concerned might apply for a release for continuing the maintenance of the measure beyond that time, if it should actually appear necessary.

68. The Working Party agreed that the measure was eligible under paragraph 11 and recommends that a release be granted under paragraph 12 for the maintenance of the measure for a period of three years.

(I) Raw Cotton

69. The representative of Syria stated that cotton production had been extensively developed in recent years. He referred to the successful experiments carried out in recent years in the growing of American and Egyptian varieties on Syrian soil, and to the expansion of the area under cotton cultivation since the year 1943-1944. To enable further development the measure was, however, needed owing to the much lower world market price of cotton.

70. The Syrian representative explained that export of raw cotton from Syria and Lebanon had always been insignificant and that the large cotton exports in 1938 shown in the statistical tables represented the re-export of imported Egyptian cotton and not exports of Syro-Lebanese production.

71. The Working Party concluded that the import restriction on cotton was eligible under paragraph 11 and, taking account of the Syrian need for economic development and the importance of this crop in Syrian agriculture, recommends that a release be granted under paragraph 12 for the maintenance of the measure for a period of five years.

(J) Cotton Yarn or Thread

72. The Syrian representative stated that the Cotton Spinning industry, which was founded in the late nineteen thirties, processed domestic production of ginned cotton and supplied the raw material for the textile industry. The production of this key industry had increased steadily since its establishment; new spinning mills had been set up, and the number of spindles had increased considerably since 1944. Further plans had been recently adopted for expansion to meet the requirements of the textile industry. The measure was needed to encourage this development particularly in view of the present high costs in relation to world prices.

73. The Working Party, having regard to the key position of the industry in the economy of the applicant contracting parties, considered that the measure was eligible under paragraph 11 of Article XVIII. It recommends therefore that a release be granted under paragraph 12 of Article XVIII for the maintenance of the measure for a period of five years.

(K) Cotton Textiles

74. The representative of Syria proposed that fabrics of cotton, silk and artificial silk be considered together since the industries, though using different raw materials and producing different products were interrelated and had similar problems. It was stated that the modern machine weaving industry, as distinct from handicraft, began in 1927, when power looms were introduced. At present even with the constant expansion of the machine weaving branch, the modernization of this industry was still in its early stages. To reduce the price of these fabrics, the Governments had taken steps to encourage the introduction of more power looms. It was hoped to increase the number of power looms to 1000 with an estimated annual production of 1,500 tons of fabrics.

75. The Working Party considered first the cotton textile industry. In 1948, 3,200 tons of machinery were imported and installed in the two major factories at Damascus and Aleppo. Production had already increased considerably in 1946 and 1947, although exact figures were not yet available. The Syrian representative emphasized the potential demand in the region for cotton fabrics, and said that the effect of any industrialization and consequent increase in employment would be a substantial increase in demand.

76. The Working Party agreed that the measure was eligible under paragraph 11 of the Article. The Working Party recommends that a release be granted under paragraph 12 for the maintenance of the measure for a period of five years.

(L) Natural and Artificial Silk Fabrics

77. The majority of the Working Party felt that the statement and data provided chiefly concerned cotton weaving and did not apply to silk and artificial silk textile production. It was therefore suggested that the Working Party recommend that the measure be withdrawn.

78. However, it was also felt that the abnormal and difficult circumstances in Lebanon and Syria had made it impossible to supply adequate information in support of the measures. Exceptionally, therefore, the Working Party agreed to recommend that the CONTRACTING PARTIES defer a decision on these measures until the fourth session and request the Governments of Syria and Lebanon, if they wish to maintain the measures, to submit a statement in support of them at least two months before the date of the opening of that session.

79. Annex A to the Report contains a draft of a decision giving effect to this recommendation and that relating to the hosiery industry, as the CONTRACTING PARTIES are required by paragraph 12 to give a decision not later than 29 July, 1949, in the case of Lebanon and 30 July, 1949, in the case of Syria. It is proposed that the CONTRACTING PARTIES adopt this decision which will enable the decision on the measures under paragraph 12 to be taken at the fourth session.

(M) Hosiery

80. The Working Party found a similar absence of information and accordingly recommends that the CONTRACTING PARTIES defer a decision on the measure until the fourth session and request the Governments of Lebanon and Syria, if they wish to maintain the measure, to submit a statement in support of it at least two months before the date of the opening of that session.

81. The decision contained in Annex A also relates to this measure.

(N) Glass and Glassware

82. The measure, an import quota, was adopted before 1 September 1947 to foster the development of the glass and glassware industry and had in fact attracted more investment into the industry. A new factory had recently been constructed, equipped with modern machinery, and would be ready for production in 1949.

83. The Working Party considered that the measure was eligible under paragraph 11 of Article XVIII. It recommends accordingly that a release be granted under paragraph 12 of the Article for the maintenance of the measure for a period of five years.

General

84. In considering the measures notified under Article XVIII the Working Party considered that for the purpose of showing the exact nature of the measure, the relevant law or administrative decree should be supplied to the CONTRACTING PARTIES. In this case the delegations of Lebanon and Syria were unable to supply these documents. The Working Party, having regard to the special conditions in those two countries at present, agreed exceptionally not to insist upon this point. However, in doing so, the Working Party wishes to make it clear that ordinarily that information would be regarded as essential.

SECTION H: PROCEDURES BETWEEN SESSIONS FOR EXISTING AND NEW MEASURES

1. Problem

85. The Working Party considered the problem that arose in connection with the administration of the provisions of Article XVIII by the CONTRACTING PARTIES between sessions. This had received preliminary attention at the second session when the CONTRACTING PARTIES drafted a questionnaire and a suggested timetable in connection with statements in support of existing measures and also suggested a procedure to be followed in the event of any application being made for the adoption of new measures.

86. The further delay in the entry into force of the Charter accentuates this problem and in the absence of the permanent organization of the ITO which would administer the corresponding articles in the Havana Charter, the CONTRACTING PARTIES are obliged to improvise ways and means of administering Article XVIII for a further period.

87. For these reasons, the Working Party considered in detail procedures that could be followed both in the case of existing measures notified by acceding governments and in the case of new measures, application for which may be made by contracting parties.

2. Existing Measures

88. The Working Party has been greatly concerned with the difficulties which have occurred at the third session in reaching decisions on the existing measures notified by the present contracting parties, despite the preliminary consideration of these measures at the first and second sessions and the establishment of a procedure to be followed after the close of the second session.

89. In the course of consultation and discussion with the contracting parties concerned, the Working Party arrived at a more precise understanding of the type of information necessary before formulating recommendations to the CONTRACTING PARTIES. Of necessity, the discussions at Armecy have been experimental but they have demonstrated the considerable amount of time taken in obtaining sufficient information.

90. On the basis of this experience the Working Party considers it most desirable for the CONTRACTING PARTIES to adopt a procedure for the consideration of the measures notified by acceding governments in order that decisions may be taken on those measures with the least possible delay after the acceding governments become contracting parties.

91. There are two stages to be considered in connection with these measures:-

- (a) Preparation for Decision. Paragraph 12 of Article XVIII provides that a statement in support of an existing measure be submitted by the contracting party notifying the measure. It is essential that this information be submitted in such a form that it provides a clear indication of the extent to which the criteria and conditions of Article XVIII are met.

On the basis of the information that has been sought at this session and the experience gained during the examination of existing measures of present contracting parties, the Working Party considers that there should be available to those acceding governments which request it some guidance in the preparation of the statements to be submitted in support of these measures. This could take two forms:

- (i) A questionnaire listing specific information relevant to the provisions of the Article, which would form the basis of the statement in support of the measure, and
- (ii) consultation with the acceding government on the preparation of that statement.

A draft questionnaire is attached to this report (Annex C).

The Working Party considered that consultation prior to the preparation of the statement in support of the measures should help to avoid much of the fact-finding and investigation work which has occupied so much of the time of the Working Party at this session. If this were undertaken in the interval between sessions it would expedite considerably consideration of the cases by the CONTRACTING PARTIES.

In order to secure as complete a documentation as possible for consideration by the CONTRACTING PARTIES, the Working Party considered that the Secretariat should be authorized to consult with acceding governments upon their request on the preparation of their supporting statements.

The Working Party considers it desirable and probable that acceding governments would wish to avail themselves of such an opportunity for consultation.

- (b) Objections. In the consideration of existing measures the application of paragraph 7 has first to be examined. If the measures fall within the criteria set out in that paragraph the automatic approval of the CONTRACTING PARTIES is required. However, it is open to any contracting party to submit for consideration views relevant to the terms of paragraph 7(a)(2).

If the measure is considered under the provisions of paragraph 8 it is necessary for the CONTRACTING PARTIES to take into account objections from materially affected contracting parties. Although these objections are not relevant when the measure is examined under paragraph 7 it is thought that, in order to expedite consideration of these cases, it would be desirable between ordinary sessions to call for any objections without awaiting consideration of the measures under paragraph 7. However, any objections would not be considered unless and until the case was examined under paragraph 8 and would not be relevant to an examination under the provisions of paragraph 7.

It was also thought that if the CONTRACTING PARTIES were first to determine the contracting parties materially affected before inviting objections from them it would in the present circumstances delay consideration of these measures because such a determination would require a preliminary meeting of the CONTRACTING PARTIES.

It is therefore proposed that when the statement in support of the measures has been submitted to the Chairman of the CONTRACTING PARTIES, it should be circulated to all contracting parties which should, at least one month prior to the session at which the measures are to be considered, forward any objections in terms of Article XVIII to the Chairman. These objections would be circulated to other contracting parties for their consideration prior to the session at which the decision is to be taken.

The CONTRACTING PARTIES on the basis of the objections would determine the contracting parties materially affected and any objection from any other contracting party would not be taken into account for the purpose of paragraph 8(b).

- (c) Decision. It was considered by the Working Party that the interval of time provided in Article XVIII was sufficient to enable the CONTRACTING PARTIES to take decisions on existing measures at an ordinary session. It was thought that in most cases a decision could be taken without delay at an early ordinary session if there had been consultation with the Secretariat on the preparation of the statement. The investigation and research work consequently would have been concluded prior to the meeting of the CONTRACTING PARTIES and there would also have been circulated any objections by other contracting parties.

3. New Measures.

92. Applications may be submitted before the next session in respect of new measures that otherwise would be contrary to the terms of the Agreement. The requirements of paragraph 10 of Article XVIII which relate to the time-limit within which a decision on any such application must be given are specific. Consequently, careful attention must be given to practical means by which the decision on any such application made between sessions can be given with a minimum of delay.

93. Procedure for new measures was considered, as in the case of existing measures in stages.

- (a) Advance Notice. In present circumstances, it would be of great value if as much advance notice as possible could be given to the Chairman of the CONTRACTING PARTIES of the intention to apply under paragraph 7 or 8.

- (b) Consultation. To save time as much information as possible should be given in the original application. For this purpose it is recommended that the same facilities for consultation with the Secretariat should be provided as in the case of existing measures, to be available on request by applicant contracting parties. Applicants may wish to avail themselves of these facilities before submitting a formal application and in such cases might ask for advice in the preparation of the application at the same time as advance notice is given to the Chairman. It would, however, be open to the contracting party concerned to consult the Secretariat at any time.
- (c) Time Limits. As soon as a formal application is submitted the time limits provided in paragraph 10 of the Article will begin to apply. Within 15 days it will be necessary to advise the applicant within what period a decision will be given. It is suggested that the CONTRACTING PARTIES should delegate to the Chairman authority to determine this period. Because of the special administrative difficulties occurring between sessions it will generally not be practicable for the Chairman to determine a period of less than 90 days.
- (d) Examination of Applications between Sessions. A careful examination was made of the means by which a decision on an application could be given between sessions of the CONTRACTING PARTIES where it was not practicable to wait until the next ordinary session. Experience had shown that before a decision could be taken it would be necessary to have the application examined by a working party responsible for determining in a technical and objective way whether the provisions of the Article had been fulfilled by the application.

It was felt that for practical convenience a committee of the CONTRACTING PARTIES could, in the first instance, examine applications submitted between sessions. Such a committee would be responsible for making recommendations to the CONTRACTING PARTIES.

Because of the importance of securing uniformity in the administration of Article XVIII, and because of the important functions carried out by a working party on measures under Article XVIII, it is recommended that such a committee should be established at this session, to be convened by the Chairman as necessary.

It is suggested that this committee consist of not more than 10 members and that it should be a representative sample of the CONTRACTING PARTIES.

The committee would be authorized to invite for any necessary discussion representatives of the applicant government and any objecting contracting parties.

On receipt of an application in respect of a new measure, the Chairman of the CONTRACTING PARTIES would convene this committee at the earliest practicable date.

In the case of an application under the provisions of paragraph 3(b) or 5, the committee would consider the application in relation to the provisions of the Article. After asking all contracting parties whether they consider themselves materially affected by the proposed measure, the committee would sponsor negotiations between the applicant contracting party and those contracting parties which in its judgment were materially affected. After consultation with the interested parties, the committee would propose a time schedule for the negotiations. Any interested party which gave notice of its intention to appeal to the CONTRACTING PARTIES against that time schedule would proceed with the negotiations but would not be bound by the time schedule.

In the case of an application under paragraph 7, the committee would consider whether the criteria of the paragraph had been fulfilled and if so recommend a period of release. In cases where the committee decided that the criteria had not been fulfilled it would be open to the contracting party concerned to submit a further application under paragraph 8. In this case the procedures of paragraph 8 would then apply and the time limits would be effective from the date of the second application.

- (e) Objections. Paragraph 8 of the Article provides that objections shall be invited from contracting parties which are determined by the CONTRACTING PARTIES to be materially affected by the proposed measure. In the present circumstances, however, it was considered that, as in the case of existing measures, it would delay consideration of the application if such a determination were made before objections were invited. It is, therefore, suggested that the Chairman should circulate copies of any application under paragraph 8 to all contracting parties which would be asked to submit any objections they might have within a period to be determined by the Chairman.

In considering an application under paragraph 8 the intersessional committee would consider whether the contracting parties which had submitted objections were materially affected or not and if so would take account of their objections in reaching a recommendation.

In making this recommendation, the Working Party wished to draw attention to the fact that the wide circulation of any such applications among contracting parties would require special care to be taken to maintain secrecy in accordance with the provisions of paragraph 2 of the Article.

- (f) Decisions. The committee would be responsible for recommending to the Chairman of the CONTRACTING PARTIES the method by which its report should be considered and a decision taken by the CONTRACTING PARTIES. The following possibilities were considered most likely but it was recognized that the committee could make recommendations to the Chairman only on the basis of the circumstances applicable in each instance.

- (i) Ordinary session. In general the most practicable course would be for the committee, in consultation with the applicant, to recommend that its report should be considered at the next ordinary session.
- (ii) Post or cable. Some applications might be sufficiently clearly established, by a unanimous recommendation of the committee, as not to require debate in the CONTRACTING PARTIES and in these cases the summoning of a session of the CONTRACTING PARTIES would not be justified. In such cases, the CONTRACTING PARTIES could decide upon the recommendation of the committee by post or cable.

- (iii) Special session. In urgent cases it might be necessary for an application to be considered at a special session of the CONTRACTING PARTIES especially if there were a long interval before the next ordinary session. In the event of more than one application being made, it might be possible for these to be considered at the same special session.

Conclusion

94. It was suggested that if it is possible adequately to develop the functions of consultation and guidance by the Secretariat, the tasks of the inter-sessional committee or working party established during sessions would be considerably lightened. Eventually, it might be possible for the CONTRACTING PARTIES, without reference to a working party to give a decision on the basis of an application prepared after consultation and discussion with the Secretariat.

95. It is suggested by the Working Party that this report should be considered solely on the basis of technical experience and requirements. The problem of providing the facilities should be considered by the CONTRACTING PARTIES and the Executive Secretary in connection with related problems arising during the course of this session.

Summary

96. The Working Party accordingly recommends that:-

- (i) The questionnaire set out in Annex C be adopted as listing information to be submitted by acceding governments that have notified existing measures and by applicant contracting parties requesting approval for new measures.
- (ii) The Secretariat be authorized, on request, to consult with acceding governments and contracting parties on the completion of the statements in support of existing measures or application for new measures.
- (iii) The Chairman be authorized to determine the period within which a decision will be given on an application for the adoption of a new measure under paragraph 7 or 8 of Article XVIII

- (iv) Objections to existing measures or new measures should be sought by the Chairman immediately on receipt of an application and a determination as to materially affected contracting parties should be made after receipt of these objections.
- (v) Decisions in respect of existing measures notified by acceding governments should be taken at an ordinary session.
- (vi) A committee consisting of not more than ten members, being a representative sample of the CONTRACTING PARTIES, should be appointed at this session to consider any applications for new measures submitted by present contracting parties between sessions and to make recommendations thereon to the CONTRACTING PARTIES. If any one or more of the countries nominated find it impossible to participate in any meetings of the committee the Chairman of the CONTRACTING PARTIES shall be authorised to nominate another country or countries to take its or their place. In so doing he shall bear in mind the need for preserving the representative character of the Committee.
- (vii) The committee referred to in sub-paragraph (vi) shall keep under review the procedure recommended in this report including the questionnaire and make such recommendations as it may deem necessary for modifications thereof.
- (viii) Decisions in respect of new measures should be taken in accordance with the procedure recommended by the committee.

SECTION I: PROCEDURES UNDER ARTICLE XVIII WITH RESPECT TO MEASURES PERMITTED BY THE PROTOCOL OF PROVISIONAL APPLICATION AND THE ANNECY PROTOCOL OF ACCESSION

97. At the fourth meeting of the CONTRACTING PARTIES the representative of Pakistan raised the question whether a contracting party need notify under Article XVIII any measure which, though contrary to the provisions of Part II of the Agreement, is permitted by the provisions of the Protocol of Provisional Application. At the fourteenth meeting of the CONTRACTING PARTIES, the representative of Pakistan again raised, in connection with the statement submitted by the Government of Ceylon, the question of procedure under Article XVIII, both with respect to notification and to action by the CONTRACTING PARTIES in these circumstances. The Working Party was required by its terms of reference to take account of the points raised in the discussion at those meetings and to report thereon to the CONTRACTING PARTIES.

98. In considering this subject, the Working Party had the advantage of the participation of the representative of Pakistan, who also submitted a written statement setting forth the views of his delegation.

99. The Working Party directed its attention to the question whether a government is obliged to notify the CONTRACTING PARTIES in accordance with the provisions of paragraph 6 or 11 of Article XVIII, if the measure in question is permitted during the period of provisional application by virtue of sub-paragraph 1(b) of the Protocol of Provisional Application or sub-paragraph 1(a)(ii) or the Annecy Protocol of Terms of Accession. The Working Party agreed that a measure is so permitted provided that the legislation on which it is based is by its terms or expressed intent of a mandatory character, that is, it imposes on the executive authority requirements which cannot be modified by executive action. There was disagreement on the question whether the date on which legislation was "existing" in terms of the Protocol of Provisional Application was the date of the Protocol or the date of signature of the Protocol by individual governments.

100. The Working Party believed that there is no obligation on the part of a contracting party to notify a measure permitted by sub-paragraph 1(b) of the Protocol of Provisional Application or sub-paragraph 1(a)(ii) of the Annecy Protocol. On the other hand, the Working Party recognized that the provisions of Article XVIII should not be denied to a contracting party simply because the measure in question is permitted under either Protocol, as such a contracting party should be allowed to ascertain whether it will be permitted to maintain a measure for economic

development during a specified period even if that period extends beyond the time when the Agreement enters definitively into force pursuant to Article XXVI. Further, if a measure existing on the date prescribed in paragraph 11 were not notified under the provisions of that paragraph, it could be continued in force after the Agreement entered definitively into force only if it had been approved by the CONTRACTING PARTIES as a new measure under paragraph 7 or 8.

101. In addition, even where a release is not requested, there would be advantages if the contracting party concerned were to inform the CONTRACTING PARTIES of any existing or new measure.

102. The Working Party therefore concluded that during the period of provisional application:

- (1) a contracting party need not notify a measure which is already exempted by virtue of sub-paragraph 1(b) of the Protocol of Provisional Application or sub-paragraph 1(a)(ii) of the Annex Protocol;
- (2) in case it chooses to notify the measure for the purpose of obtaining a release under paragraph 7, 8 or 12, as the case may be, the full procedures and the criteria of the relevant parts of Article XVIII would apply as if the Agreement were definitively in force. However, if as a result of examination the CONTRACTING PARTIES decide that the measure should be withdrawn or modified, the contracting party concerned would nevertheless be free to maintain the measure during the period of provisional application only; and
- (3) it would be open to the contracting party to inform the CONTRACTING PARTIES of any measure for which it was not seeking a release under paragraph 7, 8 or 12 but which it was imposing or retaining in accordance with sub-paragraph 1(b) of the Protocol of Provisional Application or sub-paragraph 1(a)(ii) of the Annex Protocol.

103. The above conclusions relate both to existing measures under paragraphs 11 and 12 and to new measures under paragraphs 6, 7 and 8. However, the Working Party considered that in practice these conclusions were unlikely to affect new measures because it is improbable that a future measure would have been required by "existing" legislation.

ANNEX A

Decision

The CONTRACTING PARTIES

Exercising the power of waiver under paragraph 5 (a) of Article XXV of the General Agreement on Tariffs and Trade,

Having noted the statements of the representatives of Lebanon and Syria regarding the circumstances prevailing in those countries after the second session of the CONTRACTING PARTIES,

Having regard to the consequent difficulties in the preparation of statements by the Governments of Lebanon and Syria in support of measures which had been notified under paragraph 11 of Article XVIII,

Decide that the decision under paragraph 12 of Article XVIII in respect of the protective measures relating to the following items notified by the Governments of Lebanon and Syria shall be given at the fourth session of the CONTRACTING PARTIES, and the measures may be maintained pending that decision.

Customs tariff item

Fabrics of natural silk, pure or mixed	449-461
Fabrics of artificial silk, pure or mixed	470-492 (except 477 and 486 a)
Hosiery	580-583 (except 580 A, a & b, and 581 A)

ANNEX B

LIST OF PRODUCTS COVERED BY MEASURES NOTIFIED
BY THE GOVERNMENTS OF LEBANON AND SYRIA.

I Description of products	II Tariff items under which the products fall
Oranges, lemons and similar fruits	55 - Oranges, lemons and similar fruits
Apples, pears & quinces	59 - Apples, pears and quinces
Wheat	Ex.68 - Wheat, spelt and meslin
Barley	71 - Barley
Wheat flour	75(a) - Cereal flours
Sugar	122 - Beet sugar, cane sugar and similar sugars
Chocolate and articles made of chocolate	132 - Chocolate and articles made of chocolate
Preserves of vegetables or fruits	137 - Preserved mushrooms and truffles
	138 - Preserved tomatoes and tomato sauces, whether seasoned or not
	139 - Other preserved vegetables, pot-herbs and parts of plants
	140 - Preserved fruit, whole, in quarters or in pieces, with or without addition of sugar
	141 - Fruit, fruit peel, plants or parts of plants, preserved in sugar
	142 - Jams, fruit jellies, marmalades, fruit pulp and pastes
	143 - Liquid or concentrated fruit juices, unsweetened
	144 - Liquid fruit juices, sweetened, and syrups for beverages, not containing alcohol

Description of products	Tariff items under which the products fall
Cement	192 - Cement, whether ground or not: (a) Natural or artificial (d) Magnesium containing not less than 5% of magnesium oxide (e) Other
Fabrics of pure silk	449 - Crêpes, including those of hard twist called "georgette" and satin crêpes weighing per square metre: 450 - Other fabrics not elsewhere specified 451 - Ribbons 452 - Velvets and plushes 453 - Crêpes 454 - Other fabrics not elsewhere specified 455 - Tullies and net fabrics 456 - Lace 457 - Trimmings 458 - Embroideries 459 - Carpets 460 - Bolting cloth 461 - Fabrics of floss silk waste
Fabrics of artificial silk	470 - Velvets and plushes 471 - Crêpes 472 - Other fabrics not elsewhere specified. Close-woven and loose-woven fabrics (poplins, muslins and grenadines, voiles, gauzes, etamines etc.) weighing per square metre: 473 - Ribbons 474 - Velvets and plushes 475 - Crêpes

Description of products	Tariff items under which the products fall
Fabrics of artificial silk (cont.)	476 - Other fabrics not elsewhere specified. Close-woven and loose-woven fabrics (poplins, muslins, grenadines, voiles, gauzes, etamines etc.) 478 - Velvet and plush 479 - Crêpes 480 - Other fabrics not elsewhere specified. Close-woven and loose-woven fabrics (poplins, muslins, grenadines, voiles, gauzes, etamines etc.) weighing per square metre: 481 - Ribbons 482 - Velvets and plushes 483 - Crêpes 484 - Other fabrics not elsewhere specified. Close-woven and loose-woven fabrics (poplins, muslins, grenadines, voiles, gauzes, etamines etc.) 485 - Tullies and net fabrics 486(b) - Lace: mixed with other textiles 487 - Trimmings 488 - Embroideries 489 - Carpets 490 - Bolting cloth 491 - Metal thread to be used in the manufacture of fabrics, ribbons, trimmings and other articles containing metal thread combined with yarn for garments, furnishings and similar uses

Description of products.	Tariff items under which the products fall
Fabrics of artificial silk (cont.)	492 - Fabrics, ribbons, trimmings and other articles of metal thread or yarn, for garments, furnishings and similar uses
Raw cotton	518 - Raw cotton
Cotton yarn or thread	522 - Cotton thread or yarn, single, measuring to the $\frac{1}{2}$ kg.: (a) unbleached (b) bleached (1) under 10,000 m., (2) between 10,000 m. and 25,000 m., (3) over 25,000 m. (c) dyed, printed or chine (d) glazed or mercerized
Cotton fabrics	523 - Cotton thread or yarn, twisted, with two or more strands. 524 - Cotton thread or yarn, cabled. 525 - Cotton thread or yarn, mixed. 527 - Cotton fabrics, not figured. 528 - Cotton fabrics, figured. 528 bis - Cotton fabrics, "job". 529 - Cotton fabrics, mixed. 530 - Cloth of felted cotton for paper-making and for other technical purposes. 531 - Gauze-woven and satin-stitched cotton fabrics. 532 - Cotton blankets (or coverings). 533 - Cotton velvets and plushes. 534 - Cotton carpets. 535 - Cotton ribbons. 536 - Cotton trimmings. 537 - Cotton tulles, ordinary, plain, in pieces.

Description of products	Tariff items under which the products fall
Cotton fabrics (cont.)	538 - Cotton tulle and net fabrics, figured.
	539 - Cotton lace.
	540 - Cotton embroideries.
Hosiery	580 - Hosiery of natural silk, pure or mixed;
	A(c) - stockings and socks
	A(d) - articles not specified
	B - of natural silk, floss silk and floss silk waste mixed with other textiles.
	581 - Hosiery of artificial silk or artificial textile fibres, pure or mixed:
	B - of artificial silk or artificial textile fibres, mixed.
	582 - Hosiery of wool, pure or mixed.
	583 - Hosiery of cotton or other vegetable textile materials.
Glass and glass ware	663 - Cullet, broken glass, crushed glass.
	664 - Glass in the mass; unworked glass, in bars, rods or tubes.
	665 - Glass cast into sheets or plates, unworked.
	666 - Sheet-glass, drawn or blown, unworked.
	667 - Sheet - or plate-glass, worked.
	668 - Sheet-glass, tinned, silvered or coated with platinum; looking-glasses and mirrors.
	669 - Safety-glass and plate-glass formed of two or more sheets.

Description of products	Tariff items under which the products fall
Glass and glass ware (cont.)	<p>670 - Roofing tiles, paving-slabs or blocks, and facing tiles, in cast or moulded glass, whether wired or not.</p> <p>671 - Carboys, bottles, flasks and other glass containers for the transport and preservation of liquids, empty</p> <p>672 - Glass bulbs for electric lamps and valves.</p> <p>673 - Illuminating glassware, such as lamps, chandeliers, shades and other parts and accessories thereof not elsewhere specified or included.</p> <p>674 - Special glassware for laboratory uses, including objects of fused quartz.</p> <p>675 - Blown or pressed glassware not elsewhere specified or included.</p> <p>676 - Insulating and other bottles receptacles such as thermos flasks, bottles and flasks encased in leather, felt, metal etc.</p> <p>677 - Optical and spectacle glass.</p> <p>678 - Glass for watches and clocks.</p> <p>679 - Small glassware (glass beads, artificial precious stones, lustre-drops and the like).</p> <p>679 bis - Spun glass (glass wool).</p> <p>6800 - Articles made of small glassware not elsewhere specified or included.</p> <p>6811 - Other articles of glass not elsewhere specified or included.</p>

ANNEX C : QUESTIONNAIRE

RELATING TO STATEMENTS IN SUPPORT OF MEASURES
FOR WHICH A RELEASE IS SOUGHT UNDER ARTICLE XVIII

1. The purpose of the following list of questions is to provide acceding governments and contracting parties notifying measures under the terms of Article XVIII with guidance, in the light of experience to date, regarding the type of information that the Working Party feels to be either essential or desirable to have before a decision can be made. The type of information listed under category A is regarded as essential to the making of a decision. The information noted in category B has been found to be desirable. If it were available in advance of the discussion of the application by the **CONTRACTING PARTIES**, it would be of assistance in reaching a conclusion.
2. In the report (Section H) to which this questionnaire is attached recommendations have been made which would authorise the Secretariat, on the request of an acceding government, or contracting party, to consult and advise on the preparation of statements in support of the measures.
3. In setting out the items in category A, it is recognized that many countries have not the administrative technique necessary to provide definite information under every heading. The inability, as a result of such difficulties, to supply such information could not by itself be taken as a failure to supply the statement required under Article XVIII, but the absence of it would nevertheless hamper the consideration of any measures.
4. It is not suggested that the list of information is exhaustive or that it would be appropriate to the circumstances of each case. Whilst it would be for the applicant contracting parties to determine the way in which necessary information relevant to the provisions of the Article will be submitted, it is hoped that this list, together with the provision of facilities for consultation and advice on the preparation of statements, will enable applications to be determined expeditiously by the **CONTRACTING PARTIES**.
5. References to "industry" should be read, unless otherwise stated, as referring also to "branch of agriculture" and references to "economic development" as referring also to "reconstruction".

Category A: Information regarded as essential to the making of a decision by the CONTRACTING PARTIES

- (1) The following information is requested with regard to all measures for the maintenance or adoption of which an application is made under any provision of Article XVIII:
- (a) Precise description and the extent of the measure, the method of its operation, and the provision of the Agreement from which a release is sought,
 - (b) Range and type of goods to which the measure relates including tariff item number and description,
 - (c) Copies of the relevant legislation or administrative decree or order under which the measure is administered,
 - (d) Precise description of the products of the industry for the protection or development of which the measure is intended,
 - (e) Statistics of quantities and values over a period of years showing:
 - (1) domestic production (in the case of a branch of agriculture also area planted) of the items described in (b) and also, unless the figures are the same, domestic production of the items described in (d),
 - (2) imports of the items described in (b) ~~by countries~~ of origin,
 - (3) exports for the items referred to in (1) above by countries of destination,
 - (f) Tariff and other protection enjoyed: the nature and extent of such protection, the period for which these protective measures have been in force and the effect which they have had on the establishment or development of the industry;
 - (g) Reasons for the selection of the proposed measure in preference to other measures permitted by the GATT such as tariff protection or a subsidy;
 - (h) Information and forecast about the future development of the industry, including, for example, expected levels

of production, and the possibility of its becoming
independent of the measure:

(i) Price of imported and domestic product at the
principal market or markets;

(2) The following additional data should be submitted with
applications under the paragraphs of Article XVIII
indicated below:

paragraph 7 (a) (i)

(j) The date of establishment of the industry;

(k) The type of protection during the period between
January 1, 1939 and March 24, 1948, resulting
from abnormal conditions arising out of the war;

paragraph 7 (a) (ii)

(l) The indigenous primary commodity which is being
processed;

(m) Statistics of exports of the primary commodity;

(n) Details of the new increased restrictions imposed
abroad;

Category B: Supplementary information relating to the industry
which is to be developed

(o) Number and location of enterprises or firms;

(p) Numbers employed;

(q) Average level of wages paid to employees;

(r) Capital investment;

(s) Net profits or losses;

(t) Cost of transport and distribution of imported
product from place of entry to principal market
or markets;

(u) Information relating to the domestic consumption
of the product;

(v) Total working population of the country by
principal occupations;

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ANNEX D.

Statements referred to in paragraph 18 of the Report

- (1) Letter from the Head of the United Kingdom delegation to the Chairman of Working Party 2.

30 July, 1949.

Dear Mr. Hewitt,

With reference to paragraph 18 of the report of Working Party No.2 on Article XVIII concerning the application in respect of the Northern Rhodesian import prohibition on "filled" soap, it may be worth recording something of our discussions with the Belgian Delegation which preceded our withdrawal of this application.

On May 10th, on the initiative of the United Kingdom Delegation, an informal discussion took place in the course of which we proposed to the Belgian Delegation that some arrangement might be negotiated between Northern Rhodesia and the Belgian Congo to meet the difficulty to which reference is made in paragraph 16 of the report arising out of the prohibition on the export of low-grade palm oil from the Belgian Congo. We suggested a possible arrangement might be that the import prohibition in Northern Rhodesia would be removed; the Belgian Congo would lift the export prohibition on palm oil to the extent that a specified quantity of palm oil would be made available to Northern Rhodesia (subject to certain safeguards about re-export); the quantity and price would be subject to negotiation, but the general intention was that the quantity would be sufficient to enable Northern Rhodesia to manufacture a part of her requirements of "filled" soap but would leave a gap to be filled by Belgian Congo suppliers of soap. It was recognised that any such arrangement would have to be considered at greater length, for instance to ensure that it was in conformity with the General Agreement, and that detailed negotiations would have to take place subsequently between Northern Rhodesia and the Belgian Congo. It was agreed, however, that the delegations concerned should put to their respective Governments a proposal on these lines as a possible basis for negotiation. The Northern Rhodesian Government, after consultation, would have been prepared to negotiate an agreement generally on these

C.L. Hewitt, Esq.,
Chairman of Working Party 2.

lines. However, on 4th July we learned from the Belgian Delegation that the Belgian Government was unwilling to proceed on this basis. Consequently no details were discussed and there was no further time to consider any alternative proposition. In any case it seemed clear that the Belgian Government was not prepared to negotiate on these or any other lines.

I should emphasize there was no intention to make the withdrawal of the application conditional on these bilateral discussions with the Belgian Delegation. Had it been possible to reach an agreement in principle with the Belgian Delegation it would have made it easier for the Northern Rhodesian Government to remove the import prohibition. As it is, however, the application has been withdrawn for reasons stated in the Working Party's report.

I should be grateful if, in accordance with the agreement reached in the Working Party, you would have this letter annexed to the Working Party's report.

Yours sincerely,

(Signed) R.J. SHACKLE.

- (2) Letter from the Head of the Belgian delegation to the Chairman of Working Party 2. (Original: French)

30 July 1949.

Sir,

I have the honour herein to give some clarification as to the scope of the private negotiations that took place in Annecy between the United Kingdom and Belgian delegations with respect to the Rhodesian measure prohibiting the import of "filled" soap from the Belgian Congo.

In its letter of 25 February (document GATT/CP.3/4/Add.2), the Belgian Government requested the withdrawal of the said measure, which in its opinion did not come under the provisions of Article XVIII.

Subsequent to the first discussion that took place in Working Party 3 at Annecy, the Belgian delegation accepted to submit to its Government a draft arrangement that could have met the wishes of the British delegation.

Such an arrangement was meant on the one hand to enable the Rhodesian industry to obtain low-grade palm oil with an 8.5% free fatty acid content, and on the other to allow the importation into Rhodesia of a quantity of Congolese "filled" soap manufactured from low-grade palm oil.

The Belgian Government did not deem that it could accept such an arrangement for various reasons:

(1) The policy followed in the Belgian Congo aims at improving the quality of Congolese oil for reasons of economic soundness and on account of the anxiety indirectly to improve the standard of living of the native population. If the export of low-grade palm oil had been authorised, such a measure would have encouraged the manufacture of this product to the detriment of high-grade oil production.

Such non-discriminatory export prohibition (which also applies to the metropolitan territory) conforms in any case to the provisions of Article XI, 2(b).

(2) A derogation in favour of Rhodesia would have constituted both:

- (a) a precedent which other countries might have wished to invoke and which in the long run would have vitiated the policy followed in the Belgian Congo;
- (b) an impairment of the principle of non-discrimination that would have been contrary to the provisions of paragraph 1 of Article XIII of the General Agreement.

(3) The arguments adduced in support of the need for the Rhodesian soap industry to be protected against the competition of the Belgian Congo therefore appeared clearly inadequate.

Indeed:

- (a) Since 1947, the Belgian Government has, for the reasons stated in (1) above, also prohibited the export of soap made from low-grade oil; there is therefore at present no such competition as the one that has been referred to.
- (b) On account of new developments on the international market, the export price of high-grade palm oil has now come up to the level of corresponding prices obtaining within the Belgian Congo. Therefore, the reason why the

Rhodesian industry wished to obtain low-grade oil has ceased to exist.

- (c) The Belgian Congo exports everywhere "soapstoaks" with 7.5% free fatty acid content. If it used this raw material the Rhodesian soap industry could favourably compete with the Congolese industry and could even dispense with tariff protection.
- (d) The General Agreement provides further possibilities for protection such as tariff protection (which in the case of soap already exists: 25%).

(4) As regards the desire to diversify Rhodesian production, the attempt to develop an industry that does not find on the spot the necessary raw material seems hardly to conform to the concept of economic development.

Such are, Sir, the reasons why the Belgian Government did not deem that it could accept the proposal submitted to it.

At any rate, the Belgian Government believes it is fully entitled to maintain its request for the withdrawal of a measure which, in its opinion, is not eligible under Article XVIII, and the withdrawal of which was in no way subject to the acceptance of the arrangement proposed.

I beg to remain, etc.

(Signed) FRANCOIS NYS

Mr. C.L. Hewitt,
Chairman of Working Party 2.