GENERAL AGREEMENT ON
TARIFFS AND TRADE

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SUMMARY RECORD OF THE SEVENTEENTH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 November 1957, at 2.30 p.m.

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

Subjects discussed: 1. Application of Article XXXV to Japan
2. Consultations under Article XII:4(b) - Report on Germany

1. Application of Article XXXV to Japan (L/670, L/681)

The CHAIRMAN recalled that when this question was discussed at the Eleventh Session the CONTRACTING PARTIES recommended consultations between Japan and the countries which had invoked Article XXXV at the time of Japan's accession and had agreed that Japan would report at this Session on the results of the consultations.

Mr. OKUMURA (Japan) said that this was the third time the problem of the invocation of Article XXXV against Japan had appeared on the CONTRACTING PARTIES' Agenda and his Government deeply regretted the fact that no solution had yet been reached. He reported with appreciation, however, that some progress had been made in the past year; the Government of Brazil had withdrawn the application of Article XXXV on the coming into force of its new tariff and, in a trade agreement signed with Japan in July 1957, the Australian Government has undertaken to enter into discussions with the Japanese Government within three years to explore the possibility of applying the GATT between the two countries. It was still a source of great disappointment, nevertheless, that there remained a number of countries which as yet had shown no sign of revoking the application of Article XXXV and with whom bilateral discussions had been in vain. Moreover, the accession of Ghana and Malaya had added further difficulties to the problem in that they had assumed the legal status of their sponsor which had invoked Article XXXV against Japan.

He recognized that certain apprehensions were entertained by some countries with regard to the importation of Japanese products which had led them to invoke Article XXXV; his delegation was convinced, however, that these misgivings were groundless or exaggerated and could not justify recourse to that Article. Problems that might arise for any contracting parties could be satisfactorily solved within the ambit of the General Agreement. In this connexion he drew

attention to the fact that since the accession of Japan no insoluble problems had arisen with those contracting parties with which the GATT was applicable. His Government held the view that the promotion of exports was essential for the maintenance and expansion of the Japanese economy and thus they should not be denied competitive entry into world markets under fair and equitable conditions; this was strengthened by the fact that export trade was the only sector of the Japanese economy which had so far failed to regain its pre-war level. He expressed the hope, therefore, that the governments concerned would take fully into account the points he had raised and consider the withdrawal of their invocation of Article XXXV against Japan as soon as possible. In this connexion he pointed out that the European Economic Community would eventually apply a single common tariff to the other contracting parties, including Japan, and would enter into tariff negotiations with contracting parties during the transitional period. It was presumed, therefore, that the circumstances in which four of the Member States had invoked Article XXXV against Japan would be brought to an end in connexion with the anticipated tariff negotiations; this would be a welcome step forward towards a solution of the problem.

In conclusion, he referred to the statement of the Chairman at the Tenth Session to the effect that the widespread invocation of Article XXXV on the occasion of the accession of Japan created a situation which was of concern to the CONTRACTING PARTIES as a whole. His Government accordingly requested that this problem be included on the agenda for the Thirteenth Session, and in the meantime every possible effort should be made with a view to seeking a solution to the problem, both multilaterally and bilaterally.

Mr. WESTERMAN (Australia) referred to the recent trade agreement his Government had concluded with Japan and pointed out that Japanese goods were now admitted at most-favoured-nation rates of duty and discrimination in import licensing had been removed. He recorded his delegation's belief that this was a significant step forward in reconciling Australia's trading relationships with Japan within the framework of the General Agreement.

Mr. ADAIR (United States) said his delegation had noted with gratification the action taken by Brazil and was encouraged by the progress made in this direction by Australia. His Government had consistently favoured Japan's full participation in the General Agreement and had welcomed Japan's accession despite the fact that the invocation of Article XXXV constituted a considerable impairment of the benefits Japan had hoped to obtain. He expressed the hope, therefore, that further progress would be made next year.

Mr. de la FUENTE LOCKER (Peru) said that the full participation of Japan would benefit all contracting parties and he expressed the hope that this would be achieved in the near future.

Mr. OSMAN ALI (Pakistan) said that his Government had from the outset been concerned at the somewhat widespread invocation of Article XXXV against Japan and in this connexion he was pleased to note that Brazil, one of the fourteen countries that had originally invoked that Article, had since found it possible to withdraw its application. He had observed that, with the exception of the progress made in the case of Australia, bilateral discussions with the other contracting parties concerned had not yet produced satisfactory results. His delegation, therefore reiterated its concern over this matter and expressed the hope that more progress could be reported at the Thirteenth Session.

Mr. SWAMINATHAN (India) said that although India had invoked Article XXXV against Japan it had in fact extended most-favoured-nation treatment in regard to tariffs and did not discriminate against Japan in the administration of quantitative restrictions. He regretted that it was still necessary to maintain the application of Article XXXV as permissive protection in order to allay the fears and apprehensions of domestic industries which had resulted from both past and, unfortunately, recent experiences. He hoped, however, that as a result of current negotiations some progress would be made in the near future.

Mr. BERTRAM (Federation of Rhodesia and Nyasaland) reported that his Government had recently initiated bilateral discussions with Japan with a view to achieving more liberal treatment in trading relations between the two countries. These discussions were still proceeding.

Mr. MACHADO (Brazil) confirmed that his Government had withdrawn the application of Article XXXV to Japan upon the entry into force of the new Brazilian tariff; his delegation intended to negotiate with Japan in the forthcoming negotiations on the new tariff. He hoped that other contracting parties would take similar steps in the near future since the invocation of Article XXXV was contrary to GATT principles and should only be resorted to in extreme cases.

Mr. PRESS (New Zealand) reported that his Government had initiated bilateral discussions with Japan with a view to improving trade relations between the two countries. These discussions would be resumed shortly.

Mr. OLDINI (Chile) said that the discussion had again illustrated the diversity of reasons for the invocation of Article XXXV against Japan and had pointed to the difficulties of adopting an overall approach to the problem. He thought it would be useful therefore if the secretariat could prepare a memorandum on the treatment actually accorded to Japanese goods by each of the countries which still applied Article XXXV and on the reasons for continuing to apply that Article.

Mr. REISMAN (Canada) said his delegation understood the concern and disappointment of the representative of Japan that so many important trading countries had continued to apply Article XXXV. He referred to the fact that Canada applied the GATT fully in its trade relations with Japan, and since Japan's accession there had been a mutually beneficial expansion of trade between the two countries. He pointed out that on occasions when problems did arise consultations between the two Governments had led to satisfactory solutions; this, he thought, evidenced the possibility of working out reasonable and acceptable trading relations with Japan within the framework of GATT and, accordingly, should help allay the fears of those contracting parties which had invoked Article XXXV. He had been pleased to note the revocation of Article XXXV by Brazil and the progress made in this direction by Australia, and he hoped that further progress would be achieved in the near future. He supported the inclusion of this item on the agenda for the Thirteenth Session.

Mr. SVEC (Czechoslovakia) recorded the view of his delegation that the aims of the General Agreement could only be fulfilled when all members participated in all the rights and obligations which derived therefrom. It was on these

grounds that his delegation was originally opposed to the half-way participation of Japan. When Japan acceeded, however, Czechoslovakia granted most-favoured-nation treatment and thus trade relations between the two countries, hitherto neglected for some time, had commenced to develop.

Mr. SUJAK BIN RAHIMAN (Federation of Malaya) said his Government had applied for membership of the GATT almost immediately after the attainment of independence, without having had an opportunity of examining in detail all the commitments and rights that resulted therefrom. His Government, therefore, had not yet given consideration to the application of Article XXXV to Japan but he assured the representative of Japan that it would do so when approached.

Mr. JARDINE (United Kingsom) referred to a White Paper of April 1955 entitled "Statement of Policy of Her Majesty's Government on the Question of Japan's Accession to the GATT" and drew attention to the salient points therein: Japan enjoyed most-favoured-nation treatment under the tariffs of the United Kingdom and the Colonial Territories; in the past few years quota arrangements had been mutually agreed upon with the Japanese Government; the hope was expressed that trading relations of the United Kingdom with Japan, and Japan's trading relations with the rest of the world, would so develop as to enable the United Kingdom and the Colonial Territories in due course to accept the full application of the provisions of the GATT to their trade with Japan. Although he regretted that it had proved necessary to invoke Article XXXV the position of his Government had not changed since the publication of the latter document and for the present, therefore, that policy was unchanged.

Mr. CHRISTENSEN (Denmark) supported the views expressed by the representative of Japan and pointed out that Denmark had also been observant of the fact that the fears leading to the invocation of Article XXXV by some contracting parties were not well-founded. Other Articles of the General Agreement contained sufficient safeguards to resolve such apprehensions; indeed, his delegation had always considered the invocation of Article XXXV as dangerous since in the long-run it might create more problems than it solved. He hoped that a satisfactory solution would be found in the near future.

Mr. HAGEN (Sweden) associated himself with the remarks of the representative of Denmark.

Mr. DONNE (France) said that his Government was not at present able to modify its position with regard to the invocation of Article XXXV. He pointed out that negotiations with Japan had been undertaken by his Government with a view to improving trade relations between the two countries. These negotiations had resulted in the recent signing of a trade agreement under which certain specified Japanese goods benefit from the minimum tariff upon importation into France.

Mr. HOOGWATER (Kingdom of the Netherlands) regretted to report that the position of his Government had not changed. He assured the representative of Japan, however, that the matter was under constant study, and he would draw the attention of his Government to the points that had been raised during the discussion.

The CHAIRMAN, in conclusion, said he was sure the representative of Japan would take note of the friendly tone of the discussion both from contracting parties which had and which had not invoked Article XXXV. Referring to the suggestion by the representative of Chile, he said that in view of the progress that had already been made and of the possibilities for further progress before the Thirteenth Session, he did not think it advisable to have such progress dependent on a document that would take some time to prepare. This item would be included on the agenda for the Thirteenth Session when it was hoped the CONTRACTING PARTIES could take note of some real advance towards the solution of this problem which was, as one of his predecessors had described it, a matter of concern to the CONTRACTING PARTIES as a whole.

Mr. OKUMURA (Japan) thanked the Chairman and the CONTRACTING PARTIES for their sympathy and understanding and expressed the hope that he would be able to make a more satisfactory report at the Thirteenth Session.

2. Consultations under Article XII:4(b) - (continued) - Report on the Federal Republic of Germany (L/644)

Mr. COZZI (Chairman of the Working Party on Balance of Payments), introducing the report, drew attention to the special character and the results of the consultation in June on the German restrictions.

Mr. KLEIN (Federal Republic of Germany)[1] recalled that the Committee had examined the situation resulting from the decision of the International Monetary Fund in respect of the Federal Republic. The Committee, while recognizing the difficulties which the Federal Republic was facing in the field of economic policy, had considered that its import restrictions, as far as they were applied for balance-of-payments reasons should be removed as soon as possible. Before informing the CONTRACTING PARTIES of the measures of liberalization which his Government would take as a consequence of the new situation, Mr. Klein indicated certain factors and views which were of importance for appreciating the proposed measures.

During recent years the Federal Republic had made continuous progress in reducing import restrictions and discrimination. The existing restrictions were applied in a liberal manner and amounted to a controlled expansion of imports. From 1953 to 1956 imports of liberalized products and imports of products subject to quotas had increased by 73.7 per cent and 119.6 per cent respectively.

The General Agreement permitted import restrictions to be maintained only for the protection of the balance of payments. Though the Fund had stated that the Federal Republic, from an overall point of view had no longer balance-of-payments difficulties that did not mean that it had no balance-of-payments problems. The active balance of payments in the Federal Republic was due to large surpluses in the trade with Europe. With the dollar area deficits were increasing. The CONTRACTING PARTIES would understand that these developments

[1] The full text of the statement of Mr. Klein has been reproduced in document W.12/36.

were affecting the very bases of the trade policies of many European countries including the Federal Republic. The maintenance of the present structure of trade and the stability of economic conditions in a large part of Europe were at stake. Despite this fact further liberalization measures would be taken and discrimination reduced. It must, however, be recognized that an excessive increase in imports might lead to a disruption of markets, particularly in the agricultural sector and might have adverse repercussions on the trade of other countries.

Certain controls on agricultural products, such as cereals, meat, fats and sugar, applied pursuant to the Marketing Laws were maintained in accordance with the Torquay Protocol and the reservation made by the Federal Republic in respect of Parts II and III of the General Agreement. The Federal Government regretted not to be in a position at present to change this situation. Certain other controls concerned agricultural products which were mainly of importance for European countries. Temporarily, no decision would be taken in this respect because of the present situation of agriculture in Europe. The Resolution of the Council of the OEEC of 17 October 1957 (L/745) had referred to this difficult situation.

In many countries of the world agriculture was the object of special schemes devised to preserve this important sector of the economy. Attention to this situation had been drawn in International Trade 1956 (pages 32 and 238). Whatever form these schemes took, whether consistent or not with the General Agreement, all had the same purpose of preserving agriculture and protecting it from entirely different conditions of production and competition abroad. The current world-wide subsidizing of agricultural exports was one of the reasons for import controls in many countries. Should import policies in this field continue to be considered mainly from the point of view of the balance of payments when in most cases the foreign payments situation was irrelevant? At the Review Session insufficient account had been taken of these problems. The Australian proposals to revise the agricultural provisions of the General Agreement were a symptom of the wider recognition that these provisions were no longer realistic.

The relaxation of controls on imports of industrial products in the Federal Republic was largely conditioned by the commercial policies of its trading partners. Imports of products made of raw materials which were subject to monopolies or export duties could not easily be liberalized. The invocation of Article XXXV by a number of contracting parties could distort competitive conditions for certain products and hamper their liberalization.

Mr. Klein then addressed himself to the relaxation measures which his Government had decided to take. On 1 January 1958, a considerable number of agricultural, and industrial products of an import value in 1956 of 1.3 billion D.M. i.e. 5.6 per cent of total imports would be liberalized for all contracting parties. Full liberalization would also apply within a maximum period of two years to a group of agricultural and industrial products, with an import value in 1956 of 600 million D.M., i.e. 2.1 per cent of total imports. In order to relax or remove discrimination, global quotas for non-liberalized products would be granted as from 1 January 1960 to practically all the non-OEEC contracting parties. The current negotiations for the formation of a free-trade

area in Europe and the concern not to introduce arrangements which might have to be revised soon had restrained the Federal Republic from modifying the present import controls vis-à-vis the OEEC countries. Finally, effective from 1 July 1958, the Federal Republic would consolidate the global quotas up to then applied separately to the soft-currency and the dollar areas, thereby removing discrimination.

The contracting parties would on close examination recognize that these measures represented considerable progress. Current restrictions on dollar private imports would be reduced by about 75 per cent. Controls which would continue to apply in the field of food and agriculture would apply to a flow of trade of 4.6 billion D.M. in 1956, i.e. 16.5 per cent of total imports. Of this amount 3.1 billion D.M., or 11 per cent of total imports related to products subject to the Marketing Laws. As regards industrial products only 2.1 per cent of total imports (590 million D.M.) would remain under controls. Of these imports 0.6 per cent were subject to State trading. Accordingly, 18.6 per cent of total imports would remain under control.

Mr. Klein hoped that the contracting parties would understand the particular problems which his Government was facing. The Federal Republic was hopeful that solutions would be found for problems which were still unsolved or still seemed unsolvable.

Mr. WARREN (Canada) said that this item because of its importance would require fuller discussion at a later meeting since time was needed for delegations to study the detailed statement of the German delegation. The level of the remaining import restrictions, which would be substantial during and after the German proposals were implemented and the effects which these restrictions would have on the export possibilities of individual contracting parties, were not the only important questions to discuss. An equally and perhaps more important issue concerned the structure and future of the General Agreement and the balance of rights and obligations between contracting parties. The rules under which contracting parties had agreed to conduct their trade relations prohibited the permanent use of quantitative restrictions as a measure to limit imports; their maintenance was permitted as a temporary measure insofar as required by balance-of-payments difficulties. During the long years of the post-war transitional period contracting parties, such as Canada, had been waiting to reap the full benefit of tariff concessions which they had obtained and to export without the artificial barrier of quantitative restrictions. Here now was a country which, in the view of the Fund and in the view of the CONTRACTING PARTIES as reflected by the report of the Consultations Committee, no longer had payments reasons for restricting imports. The Canadian delegation had expected that in the interval since the balance-of-payments consultations the Federal Government would have reached the decision to eliminate the remaining restrictions, unless otherwise justifiable under the Agreement, thereby opening its domestic market to competition from other contracting parties subject only to the tariff barrier.

The announcements made by the German delegation were extremely disappointing. Some measures would be taken in 1958, others in 1959 and even when the programme had been implemented over 18 per cent of German imports would continue to be

restricted. Subject to a more careful examination, his delegation thought that the CONTRACTING PARTIES should ask the German authorities to reconsider their proposals in view of the interests of other contracting parties and the very substantial reserve and creditor position of the Federal Republic. It would correspond to the realities of their situation and to their obligations under the General Agreement to bring forward a revised programme which would provide for the urgent elimination of restrictions.

Mr. Warren said that he was not impressed by the various arguments put forward by the German representative as extenuating circumstances making it difficult to eliminate the restrictions. Nor was he sure that he could understand all the points made by the German representative. The CONTRACTING PARTIES must ascertain whether the German Marketing Laws in fact constituted mandatory legislation which would be covered by the reservation contained in the Protocol of Provisional Application. It was by no means clear that this was the case. That the negotiation of various trading arrangements in Europe prevented liberalization measures in the field of agriculture could not be accepted by other contracting parties. The argument that, since the agricultural provisions of the Agreement might be revised anyway, measures of relaxation in that field were not really necessary could also not be accepted. Contracting parties were obliged to operate under the Agreement as it stood and not as it might be revised. Mr. Warren, in concluding, repeated that the proposed relaxation measures were unsatisfactory and suggested that the CONTRACTING PARTIES ask the Federal Republic to reconsider its plans and see whether more substantial and more rapid progress could not be made towards the complete elimination of restrictions. That was indeed what the payments position of Germany and the obligations of the Agreement required.

Mr. MACHADO (Brazil) observed that it was a country (Federal Republic of Germany) which had for a number of years experienced no serious balance-of-payments difficulties, which announced the liberalization of lengthy lists of products and which would continue to restrict some other imports because of what it now called balance-of-payments problems. As a member of the Consultations Committee, he had noted that quantitative restrictions were often maintained for purposes of economic protection, particularly in the agricultural sector. Little could be done to remedy a situation which the CONTRACTING PARTIES could not investigate because the authority to resort to the provisions of Article XII was accorded by another international body. The discussions in the Consultations Committee had brought out the need of reviewing certain provisions of the Agreement which in present circumstances needed to be revised. What was indeed the percentage of the trade of the contracting parties which was not covered by the balance-of-payments exceptions and by waivers? How could countries in the process of development such as Brazil be expected to adhere strictly to the rules of the General Agreement when highly industrialized countries with strong payments positions resorted to quantitative restrictions to protect not only their agriculture but also some industrial products? Mr. Machado shared the view of the representative of the Federal Republic that in some respects the rules of the General Agreement were no longer realistic.

Miss SEAMAN (United Kingdom) said that the announcement of further liberalization measures, in the following two years, though welcomed, represented little compensation for the disappointment caused by the Federal Government's

programme for dismantling the other remaining import restrictions. At the consultation in June, it was generally recognized that the Federal Republic was no longer entitled to resort to Article XII and was therefore no longer justified in maintaining quantitative restrictions for balance-of-payments reasons; in maintaining such restrictions the Federal Republic would be in breach of Article XI. The representative of the Federal Republic had recognized the "fundamental importance" of the Fund's decision for its foreign trade policy, and had given the other contracting parties to understand that early and complete liberalization could be expected.

The United Kingdom regarded the claim that the German Marketing Laws were covered by the clause in the Protocol of Provisional Application concerning existing legislation as ill-founded. It understood that the laws in question required that imports of the goods concerned be under State monopoly, but not that they required the quantity of imports to be restricted. The wording of the Torquay Protocol itself made it clear that the relevant Parts of the General Agreement, including Article XI, must be applied to the fullest extent not inconsistent with the legislation existing on the date of the signature of the Protocol. Incidentally, one of the Marketing Laws seemed to have been enacted a few days after 21 April 1951, the date on which the Protocol was signed. In her delegation's opinion, the words "to the fullest extent not inconsistent" meant that if existing legislation left the executive no discretion but to act contrary to Article XI, i.e. if the Federal Government could only meet its obligations under that Article by taking action inconsistent with its own legislation, then the Protocol would have the effect of giving it an automatic waiver of these obligations. If, however, existing legislation gave the Federal Government discretion between action conflicting with and action consistent with the Agreement, i.e. between limiting imports or not, action consistent with Article XI would not be inconsistent with its national legislation and the obligations of Article XI would not be waived. This seemed the only meaningful interpretation of the Protocol.

As she understood the German representative's statement there were some other restrictions, which the Federal Republic claimed not to be able at present to relax on the ground that they were encompassed in the area which would be the object of the negotiations on the European free trade area. The basis of this contention was not very clear. It seemed to her that it would be difficult to justify retaining for the sake of regional negotiations restrictions which the wider obligations of the GATT required Germany to remove. The Federal Republic should fulfil the obligations which resulted from its balance-of-payments situation and relax its quantitative restrictions as soon as the necessary administrative arrangements could be made. If for certain items, because of special reasons, such liberalization was not immediately practicable, the situation could be regularized by bringing the remaining restrictions within the terms of the hard-core waiver. The remarks which the German representative had made, about the policies of the contracting parties generally in the agricultural field, would no doubt be commented upon by other delegations more directly concerned. The arguments put forward did certainly not apply to some of the products which would remain restricted.

Miss Seaman, in concluding, supported the suggestion made by the representative of Canada, that the German delegation inform their Government that the announced measures did not, in the view of the CONTRACTING PARTIES,

go far enough to meet the Federal Republic's very serious obligations as a major creditor country. Her delegation had hoped that full and final consideration could be given to this situation before the close of the Session. Although little time was left, she requested the German representative to enquire with his Government whether a more far-reaching programme of liberalization could be announced before the close of the Session.

Mr. HAGEN (Sweden) agreed that the announced liberalization measures indicated that restrictions had been rather extensive in the Federal Republic during the previous years and had perhaps contributed to the accumulation of surpluses. Although there might, admittedly, be good reasons to wait for further developments in the negotiations on the free-trade area and in the establishment of the European Community before definitive decisions were taken in respect of certain products, his delegation had expected more complete and perhaps faster relaxation of import controls. In his opinion, no objection could be found on formal or legal grounds to the contention that the Marketing Laws were covered by the reservation in the Protocol of Provisional Application. Whether the legislation was mandatory or not was irrelevant because the CONTRACTING PARTIES had never recognized that this character was required for the application of the Protocol. Concerning some restrictions on other agricultural products, the German representative had drawn attention to the proposed discussions in the GATT forum. These restrictions were of a complex nature, various countries had obtained waivers and preferential arrangements tended to distort trade in these products. All the problems arising in the trade in agricultural products could appropriately be examined in connexion with the Australian proposals.

Mr. ADAIR (United States) appreciated the attempts which the Federal Republic of Germany had made to work out a programme consistent with its obligations under the General Agreement. Because of its payments situation, however, the Federal Republic had no longer any justification to maintain quantitative restrictions under Article XII and the proposed programme did not therefore appear to meet the commitments which she had undertaken. The United States had confidently assumed that the new situation would lead the German Government to meet its GATT obligations with a minimum of delay in accordance with agreed procedures and principles. Appreciating that a short period of time to remove all quantitative restrictions might be needed, it had been prepared to consider a request for a "hard-core" waiver. The proposed programme did not, to the great concern of his Government, envisage the complete elimination of discrimination within a short period. It appeared unjustified and therefore disappointing to effect only a partial elimination of the discrimination within a term of two years. The contention that the Federal Government was compelled by legislation and therefore permitted to restrict imports - and, even less, to discriminate - could not be accepted.

Mr. Adair hoped that the German delegation would report the comments made at the meeting to its Government with a view to an early reconsideration of the proposed liberalization programme in the light of its GATT obligations. The failure by the Federal Republic to live up fully to its obligations under the General Agreement would, no doubt, adversely affect further progress towards a liberal trading policy. Since 1947 the United States Government had wholeheartedly participated in successive tariff negotiations and granted significant and immediately effective reductions in many of its customs duties. This policy had been followed despite the fact that a large part of the tariff concessions could clearly be of no trade value as long as quantitative restrictions were imposed, because it was expected that these controls would be promptly removed as soon as they had no longer financial grounds. The United States legislators and public had been repeatedly assured that when payments conditions improved, the delayed benefits of the negotiations would promptly be received. The expectation of a progressive removal of quantitative restrictions would be destroyed if countries successfully emerging from balance-of-payments difficulties persisted in maintaining import restrictions and discrimination not justified under the General Agreement. The programme proposed by the German Government clearly raised a number of basic and important issues for the General Agreement. As the time available at the Session did not permit the careful examination which these questions deserved, his delegation proposed that the Intersessional Committee be instructed to consider this matter at the earliest possible time.

Mr. WESTERMAN (Australia) said that from a very quick examination of the liberalization measures last announced by the representative of Germany, he had gained the impression that insofar as his country was concerned there was little, if anything, indicated that would improve existing trade or open up opportunities for increased trade. He had searched in vain in the list of products to be liberalized for items of major trade interest to Australia such as wheat, butter, barley, oats and apples and for any measures that would open up trading opportunities in this market for products of growing interest such as cheese, skim milk, full-cream powder, canned deciduous fruits, jams and jellies and frozen and canned meats.

The continued maintenance of discrimination in the application of quantitative restrictions could not be justified: moreover, there was no assurance that this discrimination would be eliminated when quotas were eventually liberalized in 1960. In fact, there was a clear suggestion that there would be continued discrimination even after 1960 as between OEEC countries and non-OEEC countries.

He had found it difficult to reconcile the present attitude of the German delegation with that adopted at the Review Session. In this connexion he quoted the following extracts from a statement made at that time by the leader of the German delegation, Dr. Erhard:

> "The GATT must stick to the basic rule that quantitative restrictions in the foreign trade, which are already permissible only to forestall the imminent threat of or to stop a serious decline in its monetary reserves - this is, at least, the general rule - should be discarded by countries with convertible currencies. Where a country is still permitted to maintain quantitative restrictions for balance-of-payments reasons, it should be obliged to abolish such practices as soon as possible. ... I would like to make it clear beyond doubt that in the long run, and under a system of convertible currency, protection of industrial and agricultural production must not be secured by the questionable practice of quantitative restrictions but only by the international device of tariffs. For a certain period of transition, however, the make-shift solution of such restrictions will have to be put up with within a steadily narrowing scope as this would seem to be the only reasonable approach. ... In many countries, even those which have already convertible currencies or get ready for convertibility, there remain certain needs, even pressing needs, of protection for one or another economic sector, which implies, of course, certain restrictions in the field of foreign trade."

Other equally specific statements made at that time by the German delegation further strengthened the inconsistency of the attitude now adopted by them: for example, it had been stated that Germany was not in a position to agree to new trading rules which did not make provision for the solution of the problem of quantitative restrictions for economic reasons. And, at a later stage, Mr. Hagemann of the German delegation had made it quite clear that the

transitional provisions for removing import restrictions as contemplated in the hard-core waiver were quite satisfactory to his delegation. Mr. Westerman further recalled that the German delegation had specifically made it clear in the working group responsible for the drafting of the hard-core Decision that restrictions on the products covered by their Marketing Laws were in fact those which they intended to remove during the transitional period provided for in the hard-core Decision; indeed, they requested an assurance that they could avail themselves of these provisions since they felt that without such an assurance the German Government could not ratify the Agreement.

He confirmed that the Australian delegation would be making certain proposals to examine the adequacy of the GATT provisions with regard to agriculture but that was no reason for the German Government failing to proceed in accordance with the present provisions. The fact that a European free-trade area was at present under discussion, that discussions would be held by the Six on agricultural matters, and that the German authorities had very serious difficulties in the removal of agricultural restrictions, all added urgency to the need for a full-scale re-examination of the GATT in relation to agriculture but it in no way altered the status quo. Consequently, these projected studies should not be advanced as a reason for taking no action in respect of those commodities which, as the representative of Germany had pointed out, represented some 16 per cent of Germany's import trade. He thought that not only were the trade interests of Australia at stake but also the interests of the CONTRACTING PARTIES as a whole in ensuring compliance with the provisions of the General Agreement since the hard-core Decision had been framed with the purpose of meeting exactly the kind of situation with which Germany was now confronted and these provisions could in no way be honoured by their breach.

In conclusion, Mr. Westerman said that the present discussion was merely a "first reading" of the problem; the ultimate solution would have to be sought during the intersessional period. It was necessary, however, for contracting parties at this stage to record their views and recommendations on this matter in order that they could be transmitted to the German Government. He suggested, therefore, that this matter be referred to a working party with the task of formulating the consensus of opinion of the CONTRACTING PARTIES and of making recommendations as to the terms of reference for intersessional machinery which he advocated should be established.

Mr. CHRISTENSEN (Denmark) said that the Fund Decision meant that legally the Federal Republic could no longer apply Article XII. Apart from the legal aspect, however, the Federal Republic's economy and balance-of-payments situation had for some time past been so strong that it had been reasonable to expect steady progress towards liberalization of imports. There had already been a considerable degree of liberalization, the German representative had announced a new and important plan as a further step towards the total abolition of restrictions, and the CONTRACTING PARTIES were entitled to expect further announcements of liberalization measures. It was not practical policy, however, for any country to dismantle its restrictions overnight, quite apart from any hard-core problems, and the German Government must be allowed time in which to do so, as had been permitted in the case of other contracting parties.

The Danish Government was particularly concerned with agricultural questions. It understood that in that field the Federal Republic had to face special economic, social and political problems, and reference had also been made to the difficulties caused by subsidized agricultural exports of other contracting parties. But even though the Federal Republic might not find it possible to eliminate the restrictions entirely for some time to come, that should not prevent the present system, under which imports amounted to only a small fraction of total consumption and prices were kept at a level well above world market prices, from being gradually adjusted to permit a steady increase in imports.

The legal problem relating to the German Marketing Laws had been discussed on many previous occasions, both formally and in informal talks, but no agreement with the German delegation had been reached. The Danish delegation held the view that only mandatory legislation was covered by the provisions of the Protocol of Provisional Application, and found it difficult to agree the German Marketing Laws were mandatory to such an extent as to prevent the application of basic GATT rules. The question was an important matter of principle which might have repercussions on a number of other questions, and he hoped the German delegation would give renewed consideration to the concern which many representatives had voiced, and would be prepared to discuss any other problems relating to trade in the products affected that might exist for other contracting parties.

It was difficult to foresee in what way the agricultural restrictions would be progressively abolished once the legal question had been solved, but it must be realized that the establishment of the European Economic Community and the projected free-trade area changed the very basis for the evaluation of the problem. He was confident that closer European economic co-operation would contribute greatly to a more rapid solution of Germany's agricultural problems. Arrangements within the GATT concerning Germany's agricultural restrictions would have to take into account the relevant provisions of the Treaty of Rome and eventually of the free-trade area convention; in that connexion, consideration should not be limited to quantitative restrictions and tariffs, but should also include the even more important question of protection afforded by many countries in the form of subsidies to agricultural production. The prime concern of the CONTRACTING PARTIES should be to find a solution to the problem of the common European agricultural policy as a whole, and to lay down specific provisions now for the agricultural trade of Germany and perhaps of other contracting parties would be unrealistic and might prejudice the major issue. In that background, it was evident that the present German import controls on agricultural products were not of the same importance as they had been two years ago.

Mr. PRESS (New Zealand) said that for many years in applying the remaining import controls for balance-of-payments reasons, his country had extended complete non-discrimination to Germany; in return, New Zealand had met not only with restrictions on almost all the products exported to Germany, but also with continued discrimination in the administration of those restrictions. Numerous

discussions between the two Governments had led to an improvement in some areas, but in many the situation remained unchanged. The statement by the German representative would require careful consideration but the New Zealand delegation had already seen that the list contained not one important New Zealand product to which restrictions still applied, and they were concerned at the suggestion which appeared to be inherent in that statement that the existing discrimination against non-OEEC countries might not be removed. Moreover, there would apparently be some relaxation of discrimination in two years' time, and more detailed information was needed. Like the United Kingdom representative, he hoped for an explanation of Dr. Klein's reference to the free-trade area negotiations which did not seem quite relevant. The New Zealand Government had carefully studied the German marketing laws, and had not found them more mandatory than the empowering legislation of many other countries, including New Zealand, which had not thought it necessary to adopt such an attitude. The whole matter called for urgent consideration at the current Session, and he supported the proposal to refer it to a working party.

Mr. KLEIN (Federal Republic of Germany) said that he would report in detail to his Government the statements made at the meeting. He agreed that the CONTRACTING PARTIES might consider the matter further. With regard to the remarks of some representatives regarding the Marketing Laws and the references to the Torquay Protocol, his Government considered that those laws were mandatory, but furthermore was of the opinion that the relevant provisions within GATT did not require existing legislation to be mandatory. Referring to the quotations by the Australian representative from statements made by Dr. Erhard, his Government would not withdraw any of those statements; it must be borne in mind, however, that at that time there had been great hopes for general convertibility of currencies; since then the world situation has changed very much and the question of convertibility had been postponed, otherwise the current position might be very different.

Mr. SVEC (Czechoslovakia) pointed out that his country had extensive trade relations with the Federal Republic of Germany and was particularly interested in the GATT rule of non-discrimination. He reserved the right to express his Government's views, and supported the proposal for a full discussion of the programme announced by the German delegation.

Mr. SOMMERFELT (Norway) expressed his concern at the possibility that Germany after 1960 should still be allowed for balance-of-payments reasons to apply import restrictions on some 18 per cent of imports. It was unfortunate that the German delegation had not provided more information regarding exports. According to German estimates, there would be an export surplus with the EPU area for the current year of some 6,000 million DM as compared with 2,500 million DM in 1956, when Norway had a deficit of some 600 million DM vis-à-vis the Federal Republic. He had been happy to hear that the German Government was deeply concerned with Europe's economic stability, and also to hear Dr. Hallstein's assurances at the Ministerial Meeting that his country was aware of her obligations as a creditor nation. He had formed the impression, however, that the payments disequilibrium in Europe was one reason for the continuing restrictions. As the Norwegian delegation had already had occasion to state in

Paris in connexion with the free-trade area discussions, no attempts could nor should be made to solve this problem on a purely European basis. He urged the Federal German Government to reconsider its position as rapidly as possible.

Mr. WARREN (Canada), Mr. BERTRAM (Federation of Rhodesia and Nyasaland) and Mr. CHRISTIE (Union of South Africa) supported the proposal to refer the matter to a working party.

Mr. GARCIA OLDINI (Chile) shared the view of the Swedish representative that the relevant provision in the Protocol of Provisional Application should not be interpreted as meaning that the legislation must be of a mandatory nature.

The CHAIRMAN suggested that the matter should be referred to a working party on balance of payments but that in view of the late stage in the Session, the working party should have the limited mandate of drawing up a report on the initial reaction of the contracting parties on the statement of policy made by the representative of Germany, in the light of the results of the Article XII Consultation; for communication to his Government; the working party should have the same composition and Chairman as the Working Party on Balance of Payments.

It was so agreed.

The meeting adjourned at 5.30 p.m.