

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

SR.13/19  
2 December 1958

Limited Distribution

CONTRACTING PARTIES  
Thirteenth Session

Page 186/187

## SUMMARY RECORD OF THE NINETEENTH MEETING

Held at the Palais des Nations, Geneva,  
on Friday, 21 November 1958, at 10 a.m.

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

- Subjects discussed:
1. Election of Vice-Chairmen
  2. Rome Treaties
  3. Arrangements for Fourteenth and Fifteenth Sessions and Programme of Meetings 1959

### 1. Election of Vice-Chairmen

The CHAIRMAN reported that at a meeting of the Heads of Delegations it had been agreed to nominate Mr. J.G. Crawford of Australia and Mr. G. Ferlesch of Italy as Vice-Chairmen to hold office from the end of the present Session until the end of the last Session in 1959.

There being no other nominations the CHAIRMAN declared Mr. Crawford and Mr. Ferlesch elected.

Mr. FERLESCH (Italy) thanked the CONTRACTING PARTIES for the honour they had conferred upon himself and his country.

### 2. The Rome Treaties (W.13/49/Rev.1)

The CHAIRMAN recalled the discussion of this item at a previous meeting (SR.13/15) when the CONTRACTING PARTIES had agreed that a statement of conclusions should be drawn up for approval. A statement (W.13/49/Rev.1) was now submitted for consideration by the CONTRACTING PARTIES.

Baron SNOY (representative of the Council of the EEC)<sup>1</sup> thought he could say without fear of any contradiction that the consultation procedure had yielded good results in the sense that it had enabled the contracting parties concerned and the Six, through better mutual understanding, to assess correctly the difficulties

---

<sup>1</sup> The statement by Baron Snoy is reproduced in full in document L/936.

which might arise and which could be overcome by common efforts. This mutual understanding was undoubtedly a limited result which was perhaps disappointing for the delegations to whom this first attempt had given rise to excessive hopes. If his understanding of this disappointment was correct, it arose primarily from the fact that some contracting parties feared that difficulties or damage would occur, whereas the Community was not yet convinced that damage would materialize. So far as the Six were concerned, the disappointment was due primarily to the fact that apprehensions of a subjective nature led to opposition to their plans for integration. Both sides felt frustrated. On the one hand it was noted how difficult it was to demonstrate, and to obtain recognition of, the existence of damage which was considered as certain to occur; on the other, it was felt that the other party did not take account of the expansion in the world economy which would stem from the implementation of the Treaty. But these difficulties should not give rise to undue anxiety for they were to some extent unavoidable.

The Six did not feel it possible to conduct useful consultations on the basis of mere apprehensions, but only on concrete cases. On the other hand, at the present state in the evolution of the Treaty, there were so many unknown factors that it was obviously difficult to adduce convincing evidence of the kind that would lead to appropriate mutually-acceptable solutions. The Six had so far been confronted with mere apprehensions which, in their opinion, could not possibly be substantiated. They had not refused to discuss. However, this procedure could hardly be turned into an absolute rule, for if all contracting parties were to request expert discussions to examine every possible hypothesis as to any danger which might arise, the staff of the Community would not suffice. Was it not true, on the other hand, that the Six had demonstrated their anxiety to be informed of the feelings of third countries to the full extent possible and to consider them sympathetically without necessarily being able to provide a solution so long as they were not convinced of the existence of a real and imminent threat of damage?

The question now was whether, on the basis of the impartial summary by the Chairman, it could be noted that, between mere apprehension as to possible damage and the actual damage there was a considerable margin wherein must lie somewhere a basis for fruitful consultations. The CONTRACTING PARTIES were groping for some kind of case law which could not easily be defined or outlined. The Six were determined to pursue the talks in a spirit of goodwill. They were prepared to do so, possibly in Brussels, being convinced that this practical method could lead to constructive results. Patience would be needed on both sides. The concern of contracting parties very often arose out of the fact that the Treaty vested considerable powers in the Institutions of the Community. They evidently wished to ascertain what the intentions of the Community were, but to that end they should be reconciled to the slow rate of constitutional development for which the Treaty provided and should recognize that majority decisions would, in general, be taken only during the second and third stages of the transitional period. Only then would a real Community policy be evolved. In the meantime, the Six would often face the difficulty inherent in the reaching of unanimous decisions and

the inter-play of national interests. And it might well be that their answers to questions of the contracting parties would not be perfect. This would not be a manifestation of ill-will but only a reflection of the necessities inherent in the starting of a great undertaking.

Baron Snoy recalled that the provisions of the Treaty concerning the common commercial policy affirmed the intention of the Six to play fully the liberal part of an economic entity whose imports and exports represented 21 per cent and 22 per cent respectively of world trade. This involved heavy responsibilities, in particular towards the contracting parties. The position which the Six had adopted towards Mr. Dillon's proposal and with respect to other matters bore witness to their intentions. The mere establishment of the EEC was to result in an accelerated development of the industrial production of the Six. Such development in itself generally brought about new trends in international trade. The Experts' Report stated: "The more rapid the growth in the industrial countries, the greater the demand for imports. Thus, growth, as well as stability of the industrial economies, also serves the best interests of the less developed countries." He was convinced that the protracted discussions concerning the Treaty would give an opportunity to contracting parties to become better and better acquainted with the objectives of the Community, and would lead them to share his profound conviction that the integration of the Six was fundamentally consistent with the spirit and objectives of the Agreement.

In the discussion which followed representatives taking part expressed appreciation for the co-operative attitude Baron Snoy had displayed and for the assurances he had given on behalf of the Community.

Mr. THEBAUD (Haiti) stated that his delegation had been disappointed with the outcome of the consultations on tobacco. He hoped to receive from the representatives of the Six a procès-verbal of the consultations.

Mr. VARGAS GOMEZ (Cuba) said that the experience gained during the discussions with the Six had shown that there was still a general misunderstanding concerning both the nature and object of the consultations. Baron Snoy had reaffirmed the view of the Six that the Community could only accept consultations when actual and concrete damage to the trade of third countries could be substantiated by facts and figures. In his summary of the previous debate the Chairman had stressed the fact that the consultations would be conducted within the framework of the general provisions of Article XXII which provided that "each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for, consultation regarding such representations as may be made by another contracting party with respect to any matter affecting the operation of this Agreement", and had stated that there was accordingly no need to limit the scope of the consultations by confining their object to cases of concrete and real damage

to trade. In spite of this statement, which reflected the view of the majority of the contracting parties, the representatives of the Six, in some of the consultations, had refused to enter into consultations unless evidence were given of concrete damage. At the consultation on tobacco the representatives of the Six had argued that they followed this policy because they had to comply with the decision taken by the Community when accepting the consultation procedure. In the view of his delegation Article XXII established the obligation to give sympathetic consideration to any representations. This commitment had been undertaken by all contracting parties without reservation. Contracting parties had a right under that Article to ask and the corresponding obligation to accept consultations on trade matters even without the need for the CONTRACTING PARTIES to take a special decision to that effect. Was this interpretation mistaken and were the Six entitled to make their acceptance of consultations conditional upon the existence of concrete damage? Did this mean that the consultation procedure was not accepted as a commitment under the Agreement and that the Six would only observe this commitment in certain circumstances? The issue was of momentous importance not only owing to its bearing on the Treaty, but because it involved a question of principle since Article XXII was fundamental to the general philosophy underlying the Agreement. The right to obtain consultations was one of the best safeguards written in the Agreement to protect the common interests of the contracting parties. Was not the policy of the Community in this respect deviating from important provisions of the Agreement? Contrary to paragraph (e) of the statement of conclusions under consideration, the Six, in some of the consultations, had not furnished information as to the measures arising out of the application of the Treaty. He wished that this be clarified forthwith so as to permit contracting parties to assess the real value of the consultation procedure and the advantage of pursuing discussions. His delegation agreed that in certain instances - for example as regards agricultural policies - the Six were not in a position to discuss the full effects of certain measures on the trade of third countries. This was, however, not the case with certain tariff measures, some of the provisions for a common agricultural economy, those related to stabilization of prices, etc. The general effects of these measures could usefully be examined provided the Six accepted to fulfil without reservation their obligations under Article XXII.

Mr. JARDINE (United Kingdom) said that his delegation considered that the conclusions put forward by the Drafting Group were valuable in clarifying the procedures open to contracting parties, including the Six themselves. While Baron Snoy had expressed some understanding of the difficulties which countries outside the Community felt as regards the consultations on tropical products now in progress, Mr. Jardine was not sure whether Baron Snoy had realized how considerable the disappointment of these countries was in regard to those consultations. As a discussion had already been held on the Treaty of Rome, he would confine his remarks to the consultations about the problems arising from the association of the overseas territories. His delegation had been glad, at the beginning

of the Session, that consultations had been opened under the procedures referred to in paragraph (d) of the draft conclusions, but it was disappointed with the consultations themselves, in spite of the cordial atmosphere in which they had been held. He thought the conduct of the consultations would be expedited if the Executive Secretary were to provide secretarial help and translation facilities. In the consultations on cocoa, coffee and bananas which the United Kingdom had requested on behalf of its dependent overseas territories, the general case for anticipating damage arising from the new preferences created by the Treaty - a case which had been developed in detail in the discussions in the Working Party in the spring - had not been accepted by the Six on the grounds that the arguments were purely theoretical and did not constitute a concrete case of imminent damage. For its part, however, the United Kingdom could not accept the proposal put forward by the Six that it should wait until damage had been demonstrated by trade figures showing that diversion of trade had actually taken place. As he had said in the debate on 11 November, this was in no way the idea of his delegation of how the CONTRACTING PARTIES should proceed to a practical solution of these problems. Moreover, the argument that immediate harm was being caused to the development plans of other producers, while development was being encouraged in the associated overseas territories, thus initiating what would eventually become a serious diversion of development, had also been rejected by the Six. Here, too, his delegation felt that it could not wait for a practical solution until such a diversion of development had been clearly demonstrated by the evidence of production statistics since by that time damage would already have been done, and it would be difficult, if not impossible, to put matters right.

The argument had been advanced by the French representative at a previous discussion that third countries had no right to expect a share in the expansion of the trade of the Community. His delegation considered, however, that the producers outside the territories associated with the Community were entitled to reasonable access to the markets of the Six so that they would have a fair chance to participate in any growth of that market. Another matter which caused concern, and on which no satisfaction had so far been given, was the possibility that the agricultural provisions of the Treaty might be used to accord non-tariff preferences in respect of the tropical products in question in favour of the associated overseas territories. This could, in certain circumstances, be even more damaging to trade than the tariff differentiation itself. With regard to coffee, the contracting parties needed hardly to be reminded of the world supply and demand situation which was causing producers in the United Kingdom's overseas territories considerable concern. His Government, therefore, regarded it as most important that the ground should be cleared as much as possible in relation to the Treaty considerations on this commodity before any further discussions of the Coffee Study Group were held in Washington.

It was with much regret that his delegation found that no progress had so far been made in these discussions under Article XXII. It did feel that the Community should adopt a broader approach to the problem and should have regard to the political as well as the economic aspects of the problem if satisfactory progress were to be made. He did not feel that it was necessary to repeat the arguments already put forward on other occasions regarding the grave political dangers inherent in dividing Africa. He only wished to emphasize that even if the full economic effects of the Treaty might not be felt for twelve or fifteen years, the political effects were immediate. Only if the Six could show a more helpful attitude in the consultations when they were resumed early in 1959 would it be possible to feel that the application of the procedures agreed upon in April to the problems arising from the association of overseas territories was adequate.

Mr. BARBOSA DA SILVA (Brazil) expressed appreciation of the difficulties which the Member States experienced in shaping their policies with respect to the many fields covered by the Treaty. He could not, however, be satisfied with Baron Snoy's references to the "hypothetical situation" which had been brought to the attention of the Six during the consultations. When accepting the request of his Government to be joined in the consultations, the Six had requested to be supplied with information as to concrete cases of damage incurred by Brazilian exporters as a result of the implementation of the Treaty. His delegation could not see the meaning of such qualification as it had applied to participate in the consultations as recommended by the Intersessional Committee. It had been understood that the purpose of the consultations was to discuss tariff preferences, proposals for agricultural policies and other measures which might limit or discourage access to the markets of the Community. Accordingly, his delegation had, with other contracting parties with similar interests, expounded the developments in production and trade which were expected to occur because of the implementation of the provisions of the Treaty. It had noted regretfully that the Six had taken a negative position on practically every case submitted to their attention. The slightly more comprehensive attitude which they had shown with respect to sugar permitted the expectation that a further examination of the effect of the Treaty on the trade of primary producing countries might be expected to lead to results in the future. As regards coffee, his delegation hoped that the readiness of the Member States to join in the efforts towards the conclusion of an inter-governmental agreement would lead them to reconsider the contradictory position they were adopting in taking measures to stimulate production in their overseas territories which were bound to thwart efforts to balance supply and demand in the coffee market. Indeed, at a time when producers in third countries were curtailing production, the Six would be encouraging production by the establishment of a guaranteed market, by the introduction of minimum support prices and by the conclusion of long-term contracts. The ensuing deterioration of prices would defeat the very objective of the policy of protecting producers inside the Community. Little progress had been made so far in establishing a basis of agreement, but it was hoped that by improving the consultation mechanism and by observing the procedures

agreed upon, concrete results could be achieved at the following round of consultations. The Member States should be invited to ponder over the consequences of the application of the Treaty on the trade of primary producing countries. If ignoring the impossibility for the less developed countries to make up for the losses imposed on the volume of their export earnings the Six were to adopt measures limiting or reducing the export trade of these countries, trade between the industrialized and the under-developed countries would inevitably further decline. This would be a serious denial of the objectives of the Agreement. The Member States should reflect on the last words of the Experts' Report: "The highly industrialized countries have an interest in the effects upon trade of these economic development policies of the under-developed primary producing countries. The only chance of a successful outcome is a negotiated settlement involving a gradual shift away from undesirable policies on both sides. This is without question to the long-term advantage of both; but it requires on both sides a broadminded approach as to the elements in their total economic and financial policies which they would be willing to make the subject of international discussion and negotiation."

Mr. PRIESTER (Dominican Republic) expressed dissatisfaction at the outcome of the consultations in which his delegation had participated. This outcome was a proof that the understanding which the Community claimed to have of the problems of primary exporters was not the kind of understanding to which they felt entitled both as under-developed countries and as contracting parties to the Agreement. It was, however, gratifying to point out that, as regards sugar, the attitude of the Six had been more understanding since they had recognized that there was a danger of immediate damage to trade. His delegation had hoped that through the consultation procedure a way to accommodate the interests of primary producing countries would be found. At the April meeting of the Intersessional Committee the CONTRACTING PARTIES had decided to have recourse to the provisions of Article XXII on the understanding that the consulting parties would embark on an investigation of all the aspects of the contention that the institution of the Community imperilled the trade of third countries. The Six had now repudiated their undertaking to consult fully as required by Article XXII and refused to discuss except in cases where actual injury could be proved. While at this stage no factual proof of real damage could be adduced, it was easy to demonstrate that the stipulations of the Treaty with regard to tariff as well as non-tariff measures were threatening access to the markets of the Six. Likewise it was easy to anticipate that the preferences accorded to producers in the associated overseas territories would act as a powerful stimulus to increase the output of the commodities which were the main source of foreign income of many under-developed countries. Consequently a serious re-adjustment would have to take place in world markets of primary commodities many of which were already suffering from over-production and subject to international agreement to curtail production or exports. He appreciated that the Six and the associated overseas territories had the right to increase production and expand their trade, provided only that this were achieved by measures of economic and commercial policy consistent with

the principles of the Agreement. Outside countries were entitled to a fair share in the growth of consumption within the Community. During the previous debate on the Treaty M. Philip had argued that no country had a right to a defined share in an export market. This argument was exceptionable for it was indeed a recognized principle of the Agreement that contracting parties were entitled to a fair share in the markets in which they had been traditionally represented. Mr. Priester instanced the consultations on restrictions imposed for balance-of-payments reasons to show that this principle had been taken into account time and again in discussions in the GATT.

As stated by the representative of Cuba, the CONTRACTING PARTIES should come to a clear understanding of the meaning of the consultation procedure and should decide unequivocally that contracting parties were entitled to bring to the attention of the Six apprehensions regarding future damage to their trade. It would be too late to take corrective measures when these apprehensions had materialized. Ways and means had to be found to deal with the situation forthwith. Baron Snoy had drawn attention to the difficulty for the Community in arriving at decisions regarding matters of commercial policy so long as the requirement of unanimity obtained and that this situation would only change gradually. If this were an avowal that the policies to be followed by the Six with regard to production and trade in primary commodities would not be clearly defined for a long time to come, the outlook for a positive outcome of the consultations looked very dim indeed. In the view of his delegation consultations should be pursued. With goodwill on both sides it should be possible to settle the differences which had hitherto prevented agreement. In concluding, Mr. Priester proposed that further consultations be held in Geneva and that the Executive Secretary be requested to provide secretarial help and translation facilities. The Executive Secretary should moreover be invited to act as chairman or to provide a chairman for future consultations.

Mr. SWAMINATHAN (India) said that while his delegation had welcomed the general atmosphere of cordiality that had prevailed during consultations with the Six in which it had participated it could not help but share the disappointment expressed with regard to the rigid adherence to the concept of "imminent" damage in these consultations. The Indian delegation, therefore, appealed to the Six to be more benevolent and realistic in their interpretation of damage and not insist that it be immediately demonstrable. For some commodities of interest to certain under-developed countries, the tariff rates envisaged and the policies thus far indicated did in fact create genuine apprehensions with regard to the not too distant future. It had been pointed out that many of these commodities were products of plantation industries, the proper control and regulation of which called for careful long-term planning; the policies of the Six were therefore highly relevant to those engaged in these industries. As stated by the representative of Brazil it was in the long-term interests of the Six themselves to assist not only the maintenance but also the expansion of the trade of under-developed countries. In the light of these broad considerations his

delegation re-iterated its appeal to the Six that the consultations should be conditioned by a less rigid insistence of proof of immediate damage and a somewhat more generous attitude towards under-developed countries.

Mr. RATTIGAN (Australia) considered that the statement of conclusions proposed by the Drafting Group (W.13/49/Rev.1) enabled all contracting parties, including the Six themselves, to see more clearly where matters arising out of the Rome Treaty now stood in relation to the provisions of the General Agreement. The Australian delegation, however, had been concerned at references made to the efficacy of consultations conducted with the Six under the procedures of Article XXII and, in view of the importance of the issues involved to a number of contracting parties, hoped that the Six would reconsider their attitude on this matter. Progress achieved and the approach adopted to these consultations was a matter which the CONTRACTING PARTIES as a whole should watch closely.

Mr. BELL (Rhodesia and Nyasaland) pointed out that while his delegation would accept the procedural agreement embodied in W.13/49/Rev.1 this did not imply acceptance of views expressed by the Six on the nature of the damage to trade which should be taken into account in consultations under Article XXII. He welcomed the cordiality of Baron Snoy's remarks but regretted that they did not reflect the impact of the consultations in any closer approach by the Community to the views of interested contracting parties on matters of principle. Although his delegation had already expressed its view on the basic principles of damage at a previous meeting, he now wished to supplement those views. At that meeting he recalled that the spokesman for the Six had stated that he had listened with surprise to a new kind of economic theory according to which countries would have some sort of established right to a certain percentage of their partner's import trade for each of their export commodities. In this connexion Mr. Bell emphasized that no such theory was to be understood in his delegation's approach to the issue of damage. On the contrary the Rhodesia and Nyasaland delegation held the view, which was surely no new economic theory, that the Federation was entitled to whatever share of the market it could secure under normal conditions of trade competition, and that could be an expanding share of a market itself expanding. When, however, the conditions under which access was had to that market were altered by the introduction of an import duty which would have to be paid on the Federation's supplies, then its ability to compete was immediately affected and the share of the market now enjoyed stood to be reduced or taken away altogether. That consideration applied whether one looked upon the existing share as something which could be calculated in terms

of absolute figures of volume or in ratio with total usage of the commodity. The issue, therefore, was one of a change in conditions under which access was given to a market, a change which caused a diversion of trade and damage to existing suppliers.

It would appear that the concept that suppliers were entitled to a fixed share of a market was attributable to the Six themselves if one was to judge from remarks made by their spokesman when he stated that third countries could be promised that there would be no reduction in their trade in absolute terms and that, in so far as possible, the Six would attempt to let them share in the expansion. Thus, in particular cases, duties imposed were envisaged as preventing third countries from enjoying the share of the expansion in the market which they could have expected to enjoy in competing under normal trading conditions and without the penalty of the duties which upset their competitive position. How, in fact, could the principle of a share in absolute terms even be implemented while the duty was retained?

The Community had submitted that the expansion of trade consequent to the formation of the EEC should be regarded as a counter-weight to damage arising from any diversions of trade that might take place. Mr. Bell considered it to a certain degree hypothetical and perhaps inconsistent that the Community should regard something which was likely to eventuate as a reason for allaying fears of future damage while rejecting future apprehensions on the grounds of recognized damage.

Mr. Bell trusted that when the consultations on tobacco were resumed the Six would bear in mind the essence of the damage which was the diversion of trade caused by a change in the conditions under which access is given to the market. In addition he trusted that the Six would recognize that concrete damage was not damage which could be appraised only after it had occurred. In conclusion, he emphasized that these were real and important considerations, that the damage was real, especially to underdeveloped countries which themselves were developing their economies and in doing so were providing expanding markets for products of the Community.

Mr. GARCIA OLDINI (Chile) pointed to the fact that the disappointment at the results of the consultation procedure was not general since in the case of the consultation on sugar the Six had recognized that there existed

an imminent danger of real damage. In his opinion, the overall problem created by the association of overseas territories would have to be solved piecemeal. Informal discussions held with representatives of the Community had evinced their goodwill and spirit of understanding which permitted the hope that an equitable settlement would be reached. To the representatives of the Six who asked for evidence of concrete cases of damage, of actual facts, the representatives of under-developed countries had contended that the implementation of the provisions of the Treaty would inevitably cause injury and any deferment of remedial or preventive action would render damage irremediable. The case of the primary exporting countries was well founded and deserved the utmost attention on the part of the Six. Trade diversion and distortion of production could not be expected to reveal themselves overnight. Like the implementation of the Treaty, they would be progressive. At this stage distortion in the plans and programmes of production of the primary commodities produced in the Associated Overseas Territories had undoubtedly already started. The statement by Baron Snoy gave rise to the expectation that the institutions of the Community, which in the course of time would be vested with more and more important powers, would gradually be in a better position to take action to prevent damage to outside countries. Mr. Oldini, in concluding, supported the proposal that the mechanism of the consultations be improved by drawing on the services of the secretariat.

Mr. SCHWARZMANN (Canada) was prepared to accept the draft conclusions (W.13/49/Rev.1) which he felt clarified and spelt out the position as it stood at present. His delegation had noted that the legal issues had been laid aside for the time being merely because there was insufficient information to enable the CONTRACTING PARTIES to complete their examination of the Rome Treaty under Article XXIV. The rights of the CONTRACTING PARTIES under Article XXIV, however, were in no way prejudiced or diminished and continued in full force. The procedures agreed upon for consultations under Article XXII were open to all contracting parties for all problems and as rightly stressed by the representative of Cuba, agreement to enter into such consultations was not a favour or concession since they were normal and standard basic procedures of the General Agreement. His delegation had also noted that consultations under Article XXII could be pursued simultaneously with action taken under Article XXIV, the two Articles not being mutually exclusive. The Canadian delegation was concerned, however, at the limitations the Six had attempted to put on the scope of the consultations by the requirement for advance evidence of proof of damage. This concern was not only for obstacles such action might create for progress in co-operation by the Six within the GATT, but also more generally for precedents which might be set for future joint consultations under these procedures on other issues.

The Canadian delegation's experience in the consultations on tobacco during the Session led him to join with expressions of serious disappointment at the attitude adopted by the Six who seemed unprepared to give appropriate consideration to serious representations submitted on the basis of detailed documentation. In the case of tobacco the excessively high common external tariff appeared to be based on criteria which were not related either to provisions in the Rome Treaty or the GATT. Moreover, the agricultural provisions of the Treaty and monopoly control could have very direct effects on trade in this product. There already seemed to be some evidence of shifts in purchasing plans of manufacturers based on the prospect of increased protection. Mr. Schwarzmann recalled that the consultations procedures had been drawn up with a view to arriving at a compromise solution directed to forestall and prevent damage arising from the association of the overseas territories before it occurred. His delegation was prepared to continue the present consultations for the time being, but agreed with the representative of the Dominican Republic that means to improve the "mechanism" of the consultations should be explored in order to ensure progress in the near future.

Mr. CUHRUK (Turkey) referred to the consultation on tobacco in which his delegation had participated. The consulting parties had submitted evidence to the Six of instances where the application of the common tariff of 30 per cent on tobacco created immediate and concrete injury and had expounded their fears concerning the short and long term effects of the Treaty. The consultations, though not very encouraging, had been useful to some extent in that they had clearly brought out that the apprehensions of third countries were well founded and that they could be substantiated by evidence of concrete damage. For over twenty-five years exports of tobacco had represented approximately one-third of Turkey's total foreign income. Therefore, the bearing of the common tariff on Turkish exports was almost confined to the incidence of the duty on tobacco. The rate of the common tariff on tobacco was equal to the highest duty on tobacco at present applicable in the six Member States. It was inconsistent with the provisions of paragraphs 4, 5(a) and 6 of Article XXIV, and constituted - as it had now been established - a major obstacle to the maintenance of Turkey's trade with the Six. In the view of the Turkish delegation, the agreement which had been reached with the Six at the meeting of the Intersessional Committee in April involved no limitation whatsoever of the normal consultation procedure provided for in Article XXII. No special more restricted procedure had been elaborated for the consultations on matters arising from the application of the Treaty. Indeed, the Six themselves had made it abundantly clear that they were not prepared to accept any extraordinary procedure. His delegation could therefore not agree to limit the scope of the consultations and to confine the discussions to cases of concrete and effective damage. It was indispensable that statistical evaluations based on verified data be taken into consideration. In view of the urgency and the importance of the problem, the Turkish Government attached great importance to an early and satisfactory outcome of the consultations. In concluding, Mr. Cuhruk associated himself with

the views expressed by the representatives of the Dominican Republic and Rhodesia and Nyasaland on the concept of equitable shares in foreign markets, on the advisability of pursuing the consultations in Geneva and on the need for a chairman in the consultations.

Mr. BEINOGLU (Greece) stressed that, in approving the statement of conclusions contained in the document under reference, his delegation was not accepting the views of the representatives of the Six concerning the nature of the damage to be considered in the consultations. Like other speakers who had referred to the remarks by M. Philip, he could not agree that outside countries had no right to a share in the expansion of consumption inside the Community. The decision of the Six to impose a tariff of 30 per cent on imports of tobacco was a concrete fact which constituted a sufficient basis for a precise calculation of effects on trade. Very reliable information indicated that the contracts signed so far for purchases of tobacco in 1959 already showed some diversion of trade away from traditional markets. Changes in tariff rates would have profound repercussions on the economies of countries such as Greece which were substantially dependent for their foreign earnings on exports of tobacco. The consultations which had so far been initiated had made only little headway. In the view of the Greek delegation the consultations should be pursued and accelerated in order to enable the Community to gather factual data which would permit it to find an equitable solution to accommodate the interests of all the countries concerned. He supported the proposals of the representative of the Dominican Republic to improve upon the practical arrangements for the consultations.

Mr. HAMMOND (Ghana) expressed regret that as yet no workable solution had been reached in consultations on cocoa. Of the many problems facing Ghana as a newly independent country none had proved so intractable as the damage envisaged to its vital cocoa trade as a result of the association of the overseas territories to the EEC. Since Ghana was confronted with this issue right from the time of its admission to GATT she was bound to have some misgivings about her association with this organization if no equitable solution were found for this problem. His delegation could not accept the view of the Six that it was incumbent on consulting countries to establish actual damage at this juncture; there was clearly a potential damage which would progressively increase during the transitional period commencing with the implementation of the tariff arrangements of the Rome Treaty on 1 January 1959. Ghana, meanwhile, could not afford to remain inactive when one of its prime means of existence was in jeopardy. In conclusion, Mr. Hammond expressed the hope that his delegation could report more favourably on the outcome of the resumed consultations to be held early in 1959.

Mr. DJAJADININGRAT (Indonesia) expressed his appreciation for the cordial manner and co-operative spirit in which the consultations were conducted at the Session and for the readiness of the Six in permitting his delegation to take part therein. As contracting parties were aware

these consultations were of eminent importance to Indonesia since one-quarter of its export trade was traditionally directed to the markets of the EEC. He recalled the apprehensions expressed by his delegation when the Rome Treaty entered into force and the opinion it held that the terms of trade would be worsened as a result of an unequal competitive position between Indonesian producers on the one hand and producers in the Associated Overseas Territories on the other; this would be a consequence of a high tariff wall for the former and duty-free entry into the EEC for the latter. His delegation, together with other interested contracting parties had endeavoured to discuss these problems in consultations with the Six. Unfortunately, nothing definite had thus far been achieved mainly because of differences of opinion as to what constituted "concrete" damage. In the view of his delegation such damage should be construed to be present when there was a threat of any reduction in the volume or value of existing exports of contracting parties affected or of a reduction in the share of an expanding market which they could expect to enjoy. He expressed the hope that all contracting parties concerned would subscribe to these basic principles in future consultations which he trusted would be a precursor to more satisfactory solutions to the problems confronted. In conclusion, he pointed out these consultations might be facilitated if the secretariat played a more active role in them.

Baron SNOY thanked the representatives who had spoken for their encouraging observations. He was gratified to note that at least in the case of one consultation, that on sugar, results had not been too unsatisfactory. This was an experience which deserved to be studied closely. In his opinion the consultations and discussions had contributed to remove misunderstandings in the analysis of the problems under consideration and should therefore be pursued. The Six in no way demanded damage to have materialized before they were prepared to give consideration to it; they had stated that in their view it would be procedurally inadvisable to take into consideration mere apprehensions. Indeed, this would be one extremity; the other would be to require injury to have become actual fact before taking it into account. This the Six certainly did not desire. The Chairman in his summary of the previous debate had very well identified the problem. A point of departure had to be sought between the two extreme positions, which it would, however, be dangerous to try to define textually. In view of the cordial atmosphere and the efforts of mutual understanding which had pervaded the consultations, the CONTRACTING PARTIES should, in his view approve the statement of conclusions and persevere in their attempts of reciprocal comprehension. The Six would welcome the provision of services by the secretariat. The consultations constituted the implementation of certain provisions of the Agreement and it was consequently the usual procedures of the GATT which should be used as a guide in the circumstances.

The CHAIRMAN, summarizing the debate, said that he had observed that some delegations had felt the need for an improvement in the "mechanics" of the consultations. Certain suggestions had been made in this regard, such as the preparation of agreed minutes and the provision of other facilities by the secretariat. While he thought it would be inappropriate for the CONTRACTING PARTIES to define "rules of business" for the consultations or to come to a formal decision thereon, he considered it would be desirable if something could be agreed upon as being of general application to these consultations in order to avoid difficulties and facilitate progress. Accordingly he invited all the parties to the consultations to convene and discuss the "mechanics" of the consultations, without impinging on questions of a legal or substantive nature, with a view to reaching some mutual agreement on how they wished to proceed. Whatever was decided the Chairman thought it would be possible for the Executive Secretary to provide the necessary facilities subject to limitations arising from the pressure of other work.

Many delegations had addressed themselves to the status of damage as an element featuring in the consultations. In this connexion the Chairman referred to the broad lines of his summing up on this point at the previous debate (SR.13/15) to which Baron Sney had expressed his concurrence. The reason why there had been no attempt to spell out the broad interpretation with any more precision was that no matter what wording was used in such an interpretation it would present exactly the same problems that had been encountered in the past.

Turning to the request by the representative of Cuba for an authoritative interpretation of Article XIII the Chairman pointed out that this Article was one to which the authors of the General Agreement did not deem it necessary to add an interpretative note. The Chairman submitted that the reason for this was that in the wording "sympathetic consideration" in that Article the element of "sympathy" could not be subjected to legal definition; the whole concept of representations pursuant to Article XIII:1 was not a legalistic one but one which had to be charged with an element of "sympathy". The Chairman felt sure, nevertheless, that the anxiety expressed during the debate by so many under-developed countries dependent on the export of primary products would underline the quality of sympathy which this Article demanded. No Article of the General Agreement, however, and much less one which enjoined "sympathetic consideration" and prescribed consultations, could ensure that the participating parties would reach agreement on a particular difficulty. The CONTRACTING PARTIES could not resolve these matters while consultations were still in progress and they must be pursued by the parties to the consultations themselves. Should a contracting party find it impossible to find a solution through consultations under Article XIII:1 it could then request action by the CONTRACTING PARTIES pursuant to paragraph 2 of that Article; however, no such request had yet been received.

Subject to the above elucidation the Chairman then submitted the statement of conclusions (W.13/49/Rev.1) to the CONTRACTING PARTIES for their approval.

The CONTRACTING PARTIES approved the following conclusions:

- (a) as many contracting parties considered that because of the nature of the Rome Treaty there were a number of important matters on which there was not at this time sufficient information to enable the CONTRACTING PARTIES to complete the examination of the Rome Treaty pursuant to paragraph 7 of Article XXIV, this examination and the discussion of the legal questions involved in it could not usefully be pursued at the present time;
- (b) this postponement would clearly not prejudice the rights of the CONTRACTING PARTIES under Article XXIV;
- (c) the CONTRACTING PARTIES welcomed the readiness of the members of the EEC to furnish further information pursuant to paragraph 7(a) of Article XXIV as the evolution of the Community proceeded;
- (d) the CONTRACTING PARTIES noted that procedures for consultations under Article XXII had been agreed upon and were being applied in connexion with questions arising out of the application of the Rome Treaty;
- (e) the CONTRACTING PARTIES also welcomed the willingness of the members of the EEC to furnish in Article XXII consultations information as to the measures arising out of the application of the Treaty;
- (f) the CONTRACTING PARTIES noted that the other normal procedures of the General Agreement would also be available to contracting parties to call in question any measures taken by any of the six countries in the application of the provisions of the Rome Treaty, it being open of course to such country to invoke the benefit of Article XXIV in so far as it considered that this Article provided justification for any action which might otherwise be inconsistent with a provision or provisions of the General Agreement.

3. Arrangements for the Fourteenth and Fifteenth Sessions and Programme of the Meetings for 1959 (W.13/45/Rev.1)

Fifteenth Session

The CHAIRMAN reported that the invitation of the Government of Japan to the CONTRACTING PARTIES to hold their Fifteenth Session in Tokyo had been discussed at a meeting of Heads of delegations. Some representatives had proposed that in principle all sessions should be held in Geneva, the headquarters. Others had expressed the view that occasional meetings outside Geneva should not be ruled out, but that each case should be examined on an ad hoc basis taking into account the financial and technical questions involved. Many had felt that there should be a long interval between such meetings. In view of the financial and technical arrangements offered by the Government of Japan, the Heads of delegations had decided to recommend acceptance of the invitation to hold the Fifteenth Session in Tokyo commencing on 26 October 1959.

The CONTRACTING PARTIES accepted the recommendation.

Mr. KAWASAKI (Japan) expressed his delegation's pleasure that the CONTRACTING PARTIES had decided to hold their Fifteenth Session in Tokyo. While understanding the difficulties which had motivated the hesitation of some contracting parties he was convinced that this decision would stimulate interest in GATT in the Far East.

Mr. STEYN (South Africa) said that, although he had been among those who had seen difficulties about leaving Geneva, he wished to record his personal appreciation of the decision to hold the Fifteenth Session in Tokyo.

Mr. SPREUTELS (Belgium), on behalf of his delegation, thanked the Government of Japan for its invitation. So far as future proposals for meetings elsewhere than in Geneva were concerned, the Belgian delegation thought that each of those proposals should be studied on its individual merits and in the light of existing circumstances.

Fourteenth Session

M. de LACHARRIERE (France) said that the French delegation had some hesitations with respect to the dates proposed for the Fourteenth Session in April-May. These dates meant that the Session would completely overlap with the annual meeting of the Economic Commission for Europe. This presented a serious problem for those delegations which were members of both organizations, both from the impossibility of being present at the meetings if they were held simultaneously as well as on account of the shortage of offices in Geneva. It would be extremely difficult to use the offices of

the permanent delegations if both sessions were held at the same time. He wished to draw the attention of the secretariat to this clash in view of the efforts which were being made to co-ordinate the work of the various international organizations.

The EXECUTIVE SECRETARY said that he agreed with the delegate of France that such duplication should be avoided as far as possible. In view of the heavy programme of work to be undertaken during the intersessional period it might be better to select the three weeks which followed the meeting of the Economic Commission for Europe.

The CHAIRMAN said that he felt that the CONTRACTING PARTIES should accept the proposal by the Executive Secretary to hold the Fourteenth Session immediately after that of the ECE, that is from 11 - 30 May.

It was so agreed.

#### Intersessional Meetings

Mr. GOLDSTEIN (United States) drew the attention of the contracting parties to the final report of the Working Party on Balance-of-Payments Restrictions (L/931) in which a tentative time-table for consultations had been proposed. He felt that before a final decision about the programme was made this should be examined.

Mr. HAGEN (Sweden) asked for clarification concerning the possibility of overlapping of time between the Panel on Subsidies and State Trading and that on Anti-Dumping Duties. He asked whether the time devoted to each was intended to be limited to one week.

The CHAIRMAN confirmed in reply that the proposals were for consecutive meetings rather than for overlapping, but that the panels would be free to alter arrangements when the time came.

Mr. PRIESTER (Dominican Republic) hoped that the time-table between the Fourteenth and Fifteenth Sessions would be so arranged that overseas delegates could attend the meetings of Committees II and III on Expansion of Trade and of Consultations on the Rome Treaty during one trip to Europe.

M. de LACHARRIERE (France) proposed that contracting parties should examine the question of the place at which the Committee on Balance-of-Payments Restrictions (12 - 24 October) was to be held. Was it more convenient for contracting parties and representatives of the International Monetary Fund to meet in Geneva or in Tokyo?

The EXECUTIVE SECRETARY said that he was not aware whether the offer made by the Government of Japan embraced the meetings of this Committee.

Mr. KAWASAKI (Japan) stated in reply to this question that his Government would examine this and let contracting parties know the position at the Fourteenth Session or before.

The CHAIRMAN asked the Executive Secretary to prepare a revised time-table, taking all these suggestions into consideration. He said that only a tentative approval of the time-table of the programme of work between the Fourteenth and Fifteenth Sessions was necessary since this would be dealt with in more detail at the Fourteenth Session.

The meeting adjourned at 12.35 p.m.