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Statement by the Representative of the United States

It is possible that the person unfamiliar with GATT and its procedures who might have been listening to the debate during the last meeting of this Sub-Group, might have concluded that there were irreconcilable differences of view. I, however, do not believe that to be a valid conclusion. This is not to say that the various issues will be easy to resolve or that they need to be resolved until a practical situation may arise or even that it may, in fact, be the case that a resolution would not be considered essential when the practical situation arises.

In order to illustrate the basis for the above statements, I would like to present several illustrations.

First, let us consider the situation as it undoubtedly will exist during the first several years of the transition period. During this period there will have been some relaxation of quantitative restrictions among the Six countries, which relaxations may not have been extended to third countries. There will have been, I hope, some further relaxation of quantitative restrictions on imports from other areas, including the dollar area.

These changes will be no different than what we have been having for the past several years among the OEEC countries. I have heard the view expressed that this type of arrangement is not consistent with GATT but, so far as I know, that has never been formally raised as an issue because it was felt that, among other things, it was going in the right direction.

During this initial period there will be an effort on the part of the Six to develop a common liberalization list, and various questions about the way in which this list might be developed have been asked, sometimes repeatedly. The representatives of the Six have pointed out that the development of this list is not mandatory and that it may never be developed. They have, however, not given a yes or no answer to the specific question as to whether development of this list would involve deliberalization by an individual country who could not justify such

deliberalization on the basis of that country's balance-of-payments situation. I cannot criticize them for refusing to give a yes or no answer. Obviously, such deliberalization would not be contrary to the provision of the Rome Treaty that is relevant here. As I see it, the commission will play an important rôle in the development and it is not possible for them to bind the hands of the commission.

A point which was made in another Sub-Group seems to me to be relevant here. The point, as I understood it, was that, while the Treaty of Rome might possibly leave flexibility for the institutions to take actions which would be inconsistent with GATT, this did not mean that such action would be taken. It was added that if such actions were contemplated, a waiver would be requested. It was explained that, to do otherwise would have bound the institutions against being able ever to ask for a waiver of the GATT.

To return to the specific question which has been raised, I have been trying to think of a combination of circumstances under which a deliberalization by an individual country, which was not justified by their balance-of-payments situation, would be acceptable in the development of a common liberalization list. I have been unable to find any such set of circumstances. Another, and perhaps separate, part of this problem arises from actual experience with restrictions maintained for balance-of-payments reasons. It is natural that, in selecting the specific items to be restricted, the competitive situation between imports and domestic production plays, or has played, an important part,

I also got the impression from the previous discussion that speakers had gone very rapidly from talking about a common liberalization list to talking about a common quota list. I would point out that the Treaty, so far as I read it, does not require common quotas, but it does require, at the end of the transition period, a removal of internal barriers including quantitative restrictions. Therefore, I would like to turn my attention to predicting what might be the situation at the end of the transition period, even though predictions are always dangerous and may plague you when that time comes.

As I see it, even if the Treaty did not have provisions looking toward the development of a common commercial policy, including co-ordination of policies in monetary matters, the economics of the situation will force the Six toward such common policy. If this should prove to be the case and the Six either have, or in effect have, including such things as common reserves, then I do not think it would be possible to object to common quotas on third countries and not internally in balance-of-payments difficulties.

It is between these two extremes that I find certain difficulties in being definite. There is a possibility that, as the transition period progresses, the time might come, prior to the end of the transition period, when the situation in the Common Market might be such as to justify common restrictions against third countries and no, or less, restrictive quotas internally.

You will note that I have not introduced any legal arguments, but tried to adapt the basic philosophy behind Article XXIV to the situation that you have under the Rome Treaty. I have not suggested that any decisions be taken now as to the interpretation of GATT which would prejudice the position that you might take at the beginning, during, or at the end of the transition period. My failure to do this should not be taken in any sense as agreeing to all interpretations which were expressed at the last meeting. In this area, however, I would like to supplement what I did say at the last meeting, by indicating that I cannot accept the notion that paragraph 5(a) of Article XXIV permits the averaging of incidents of protection of quantitative restrictions maintained for balance-of-payments reasons, or that paragraph 8(b) requires common quotas, or that Article XI and any other Article not preventing the formation of the Common Market are not applicable.

Furthermore, I can find no economic justification for common quotas, other than in the circumstances which I have just described. So far as I can see, they would not at this time, or certainly during the first part of the transition period, add to the economic strength of the Common Market or the attainment of the objectives that are stated in the Treaty. In fact, they could interfere with and delay the attainment of the beneficial features of the Treaty.

In conclusion, I want to say that our present position, which we have indicated bilaterally to the Belgians in connexion with their common quotas in Benelux, and our position with regard to German quantitative restrictions which are no longer under Article XII, are consistent with the remarks which I have just made.