SUMMARY RECORD OF THE SECOND MEETING

Held at the Palais des Nations, Geneva
on Tuesday, 15 January 1952 at 11 a.m.

Chairman: Mr. Johan MELANDER (Norway)

Subjects discussed:

1. Import restrictions announced by the United Kingdom and procedures for dealing with cases of intensification of import restrictions.
2. Statement by the Representative of France on the modification of the French import programme.
3. Date of the next meeting of the Intersessional Committee.

1. Import restrictions announced by the United Kingdom (GATT/CR/134) and procedures for dealing with cases of intensification of import restrictions.

The CHAIRMAN invited comments on the draft text of the points of agreement reached at the previous meeting.

Draft of paragraph (i):

"That the contention of the United Kingdom Government, that the modifications in its import programme announced in November 1951 did not constitute a substantial intensification requiring consultation under Article XII:14 (b), raised important and difficult questions of interpretation which it would be difficult for the Committee itself to resolve. Accordingly, and having regard to the facts that 1) consultations had taken place or were in progress through the O.E.E.C. with the countries principally affected, and 2) the Contracting Parties would, at their Seventh Session, be entering into consultations with the United Kingdom under Article XIV:1 (g), any decision on this point should be deferred for further consideration, if necessary, at the Seventh Session; provided, however, that if other contracting parties in the meantime introduced modifications in their import programmes which raised similar questions regarding consultations under Article XII:14 (b), the matter should be considered again."

Mr. JARDINE (United Kingdom) referring to the proviso in paragraph (i), thought it would be desirable to use a term more specific than "modifications";

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he suggested the word "intensification", and also proposed that "should" be replaced by "could".

Mr. KASTOFT (Denmark) agreed with these suggestions and proposed further that in the second line the word "programme" be replaced by "restrictions".

M. LECUYER (France) referring to the word "intensification" suggested by Mr. Jardine, recalled that the discussion on the previous day had clearly shown the division of opinion with regard to the distinction between intensification of restrictions and the relaxation of the element of discrimination.

The EXECUTIVE SECRETARY said that he had considered the point raised by Mr. Jardine and that the more neutral word "modifications" had been chosen because of the discussion on the previous day. This had, in fact, turned mainly on the circumstances constituting an intensification of restrictions and on the question whether increased restrictions resulting in a mitigation of the element of discrimination could be termed "intensification". He agreed however, that the term "modification" was open to the objection that it could equally apply to the intensification of restrictions and to their relaxation. He saw no objection to Mr. Jardine's proposal. It would be clear from the context that the relaxation of the element of discrimination might result in an intensification of restrictions, for instance, in the case of restrictions imposed on imports from soft currency countries. Provided, therefore, it was felt that Mr. Jardine's wording did not prejudice the case, he thought there would be no objection to accepting it.

M. LECUYER (France) declared himself satisfied with the Executive Secretary's explanation.

The CHAIRMAN, to clarify the discussion, gave his understanding of the views of the Committee. It appeared to him that if there were a further intensification of restrictions of a severe character taken by a group or by an individual contracting party, the issue should be dealt with in the following manner: if the intensification were of a minor character, the examination should be left to an ordinary session of the Committee, as was foreseen by paragraph (iii), or if there were a serious intensification of import restrictions, a special session should be called by the Chairman, as specified in paragraph (iv).

He had in mind an intensification of restrictions resulting in the reduction of the exports, of one or several contracting parties, towards the country taking the measures. Either of the following situations might arise: the element of discrimination might be increased, as would occur, for instance, if the sterling area countries, without intensifying existing import restrictions in force in that area, intensified their restrictions against all other countries; or if the sterling area countries, without intensifying restrictions against the rest of the contracting parties, relaxed any existing restrictions between themselves; this action would not be an intensification of restrictions, but would increase the element of discrimination. Such action would, however, in view of the principles which guide the Contracting Parties, not require the country or countries taking the measures to enter into consultations with the Contracting Parties.
The Committee agreed with the Chairman's interpretation.

Mr. COUILLARD (Canada) considered paragraph (i) too vague in its wording and suggested that it should mention the specific questions which the Committee had found difficult to resolve. Paragraph (i) went on to say that a decision "on this point" should be deferred; since there were several points discussed at the previous meeting he suggested that they should be clearly stated.

In reply the EXECUTIVE SECRETARY said that, contrary to the practice followed for working parties, it was his intention to issue full summary records of the meetings of the Committee, as was done for meetings of the Contracting Parties. The text which they were at present discussing would be incorporated in the summary record. He did agree however that the words "any decision on this point" were too vague and suggested: "on the issues involved in the United Kingdom contention".

M. LECUYER (France) said that the word "resolve" implied action which, it had been agreed, was only within the competence of the Contracting Parties, and that it would be appropriate to indicate that it was not possible to reach a conclusion at the present session of the Committee. He suggested the words "interpretation on which it would be difficult for the Committee to pronounce at this session".

Mr. JARDINE (United Kingdom) questioned whether it was necessary to add "at this session".

M. LECUYER (France) said they had been confronted at the previous meeting with a very difficult question which had not been studied by his Government. He had given his first reaction to the problem but the matter had to be studied further in order that it would be possible to arrive at a decision; it was therefore necessary to have a clear reference to this difficulty so that governments would direct the attention of their legal exports to the problem.

Paragraph (i) was then approved as follows:

"That the contention of the United Kingdom Government, that the import restrictions announced in November 1951 did not constitute a substantial intensification requiring consultation under Article XII:4 (b), raised important and difficult questions of interpretation on which it would be difficult for the Committee to pronounce at this session. Accordingly, and having regard to the facts that 1) discussions had taken place or were in progress through the O.E.E.C. with the European countries principally affected, and 2) the Contracting Parties would, at their Seventh Session, be entering into consultations with the United Kingdom under Article XIV:1 (g), any decision on the issues involved in the United Kingdom contention should be deferred for further consideration, if necessary, at the Seventh Session; provided, however, that if other contracting parties in the meantime introduce an intensification of their restrictions, thereby raising similar questions regarding consultations under Article XII:4 (b), the matter could be considered again by the Committee."
Paragraphs (ii) and (iii) were then examined and the following texts were adopted:

(ii) "In order to facilitate the task of the Chairman and the Executive Secretary, the Committee recommends that any contracting party intensifying its import restrictions should furnish detailed information promptly to the Executive Secretary. This information should be circulated immediately to the contracting parties and upon the basis of this information the Chairman and the Executive Secretary should determine whether there is a prima facie case for initiation of consultations by the Contracting Parties under Article XII:4 (b).

(iii) "In the event that the Chairman and the Executive Secretary find that there is a prima facie case for initiation of consultations, the question will be referred to the meeting of the Intersessional Committee to be convened towards the end of February or, in the event of action taken after that date, to the meeting of the Intersessional Committee which will be held six weeks before the Seventh Session of the Contracting Parties."

The draft of paragraph (iv) was then examined:

Draft of paragraph (iv):

"Notwithstanding (iii), in the event of modification of an import programme by a contracting party of such a nature as to affect seriously the trade of other contracting parties and if requested by any contracting party, the Chairman will convene a special meeting of the Intersessional Committee to consider the matter."

Mr. LECUYER (France) suggested that "modification of an import programme" should read "an intensification of import restrictions".

Mr. JARDINE (United Kingdom) proposed that the words "the trade of other contracting parties" be replaced by "the trade of the contracting parties", and proposed further the deletion of the words "and if requested by any contracting party". He had gathered from the discussion at the previous meeting that it was for the Chairman to decide whether he thought it was necessary to convene a special meeting of the Intersessional Committee and not that he could be forced to take such action if only one contracting party so requested.

With respect to the second proposal of Mr. Jardine, Dr. BOTHA (South Africa) suggested that instead of deleting the phrase they could replace the word "and" by "or".

Mr. HEWITT (Australia) thought that the whole matter was covered by the arrangements governing the calling of meetings and that it would be unfortunate if such meetings could be called at any time upon the request of any one contracting party.
The CHAIRMAN thought that Mr. Jardine's first proposal would be met by the words "the trade of contracting parties". As to the second point, he agreed to the deletion.

Dr. BOTHA (South Africa) asked whether "contracting parties" could be taken to mean "any contracting party".

The CHAIRMAN replied that the purpose of the paragraph was to define the powers of the Chairman with regard to the calling of the Committee. It was clear that the Chairman would not convene a meeting in the case of restrictions of a minor character. He was to take action when he had before him what he considered comparatively serious measures. It would be unfortunate if he were compelled to call a special meeting when, from the broader point of view of the interest of contracting parties in general, it would have been possible to wait until the next ordinary meeting.

The Committee agreed to the interpretation of the Chairman and paragraph (iv) was approved as follows:

Paragraph (iv):

"Notwithstanding (iii), in the event of an intensification of import restrictions by a contracting party of such a nature as to affect seriously the trade of contracting parties, the Chairman will convene a special meeting of the Intersessional Committee to consider the matter."

2. Statement by the Representative of France on the Modification of the French Import Programme (GATT/IC/2)

M. LECUYER (France) referred to his Government's statement which had been circulated. He therefore would not comment on it except to explain that his country's action would not have come to the attention of the Contracting Parties had there not been a misinterpretation of a statement by the French Vice-Premier. That statement had been erroneously taken to imply that a reduction of imports was envisaged, whereas its intention had been to point out that France's availability of hard currencies did not appear to allow them to buy as much as had previously been expected. No final decision had, however, been taken and the programme of imports for 1952 had been drawn up on the basis of imports in the previous year. Bearing in mind the requirements of consumption, defence and production the rate of licensing had been slowed down for a few months in view of smaller availabilities of dollars, but the import programme had not been influenced and imports had thus far remained at the level foreseen by the programme. It was however the French Government's intention to make good, as soon as availabilities of hard currencies permitted, any slowing down which had lately occurred.

The CHAIRMAN replied to the representative of France that the Committee would take note of the statement and if need arose would reconsider the matter at a later stage.
Dr. BOTHA (South Africa) considered that the information submitted by the representative of France was very meagre. They had been told that the French Government had maintained its level of dollar imports but nothing had been said about the countries outside the dollar area. He wished to ask whether, for instance, the sterling area was affected.

M. LECUYER (France) replied that for the moment, and subject to any new developments, no modifications to the French imports from the sterling area and particularly from South Africa were foreseen. Quotas had not been changed and were the same as those for the previous year.

3. Date of the next Meeting of the Intersessional Committee

The CHAIRMAN recalled that the Contracting Parties at the last session had decided that the Intersessional Committee should meet at the end of February; he suggested either the 25th of February or the 3rd of March. The subjects for discussion were the date and site for the Seventh Session of the Contracting Parties, and possibly further questions arising under Articles XII and XIV.

Mr. KASTOFT (Denmark), pointing out that the Economic Commission for Europe would be meeting on the 3rd of March, suggested that it would be convenient for some governments if the meeting were held the previous week.

The EXECUTIVE SECRETARY recalled that this item appeared on the agenda because fixing the date for the Seventh Session was of considerable importance in view of the consultations to be held under Article XIV:1 (g). The International Monetary Fund would be holding similar consultations under its Articles of Agreement and it had been considered desirable that the Fund consultations should precede those of the Contracting Parties; therefore no date had been fixed, it being expected that by the end of February more precise knowledge would be available with regard to the time when the Fund consultations would be completed.

The dates of 21 February and 28 February were also suggested and Mr. COUILLARD (Canada) suggested that, if it so happened that there were no matters for discussion under Articles XII to XIV, it might be simpler not to hold a meeting and decide upon the date of the Session by postal ballot.

The Committee agreed that, unless there were special reasons to the contrary, the Intersessional Committee would meet on the 25th of February in Geneva.

The Committee rose at 12.45 p.m.
ANNEX

The following telegram dated January 16 was received from the Government of Cuba after the close of the meeting:

"Owing late reception of note convening intersessional meeting and owing to fact that this Ministry has not yet received any data relating to action taken by France and United Kingdom concerning modification of their import programmes, Cuban Government has not been able to designate expert officials to represent it adequately notwithstanding great interest in problems to be discussed in said meeting. As a general policy and as a consequence of Cuban position, in latest session of Contracting Parties to GATT Cuban Government is against any measures which imply intensification of import quantitative restrictions. Similarly this Government is of opinion that consultation procedure should apply the moment any contracting party institutes any kind of measures tending to restrict quantitatively imports from other contracting parties. In view of the decisive importance which this problem generally presents for future of GATT, my Government is of opinion that procedure of consultation with France and United Kingdom has to be implemented at next regular session of Contracting Parties and considers that subject should be aired within ad hoc Working Party during intersessional period."