SUMMARY RECORD

of the Meeting held at the Palais des Nations,
Geneva, on 4 February 1953.

Chairman: Mr. Johan HELANDER (Norway)

Subjects discussed: 1. Accession of Japan
                  2. Pakistan Licence Fee and Duty on Exports
                     of Jute

1. ACCESSION OF JAPAN

The CHAIRMAN proposed the establishment of a working party under his
chairmanship composed of:

Australia       India
Canada          Italy
Cuba            Pakistan
France          United Kingdom
Germany         United States

with the following terms of reference:

"To examine the provisions of the General Agreement which provide
safeguards for contracting parties in the event of injury to their
commercial interests; to consider whether these would provide adequate
protection and means of redress particularly in the event of violent
and disruptive incursions in international markets; and, with reference
to the application of the Government of Japan to accede to the General
Agreement, to submit recommendations to the Intersessional Committee".

Mr. CISNEROS (Cuba) enquired whether the working party was to meet
during or after the present session of the Intersessional Committee.

The CHAIRMAN explained that the proposed working party would be expected
to meet immediately and to report to the present session.
Mr. CISNEROS (Cuba) proposed that the representation on the Working Party of under-developed countries be strengthened by the addition of Brazil.

Mr. ROCQUE da MOTTA (Brazil) thanked the representative of Cuba but felt obliged to decline in view of his other occupations.

The composition and terms of reference of the Working Party, as proposed by the Chairman, were approved.

2. PAKISTAN LICENCE FEE AND DUTY ON EXPORTS OF JUTE

Mr. AZIZ AHMAD (Pakistan) asked the Chairman if it would not be appropriate for the representative of India to present this item and propose its inclusion in the Agenda which he would oppose.

The CHAIRMAN stated that on the basis of the discussion of the contracting parties at the Seventh Session India was entitled to have the item on the Agenda.

Mr. AZIZ AHMAD (Pakistan) then drew attention to the relevant part of the decision of the CONTRACTING PARTIES adopted at the Seventh Session which read "In light of the circumstances and having regard to any consultation which may be proceeding between the two Governments, to ask the CONTRACTING PARTIES to proceed with the discussion of the substance of the complaint ..." The operative words were "having regard to any consultations which may be proceeding between the two Governments". Referring to the confidential correspondence which had been circulated to the members of the Intersessional Committee, he drew attention to the fact that as recently as 29 January 1953 the Government of Pakistan had suggested a meeting between the representatives of Pakistan and India to clarify the unofficial proposal made by the Chairman of the CONTRACTING PARTIES during the Seventh Session to resolve the difficulties, which had arisen between India and Pakistan. Only that day he had heard that the Indian Government had declined the suggestion. The reply from the Government of India was that they did not agree to such a meeting until Pakistan suspended certain measures on exports of jute. The suggestion of the Chairman of the CONTRACTING PARTIES had most clearly implied that both Governments should suspend certain measures with consequent benefit accruing to each party. Mr. Aziz Ahmad explained that unless certain clarifications and assurances were forthcoming from the Government of India, which were to be sought at the meeting proposed by Pakistan the adoption of the Chairman's suggestion may prove wholly illusory as far benefits to Pakistan were concerned. He stated that their experience during the past years had been that even when there was a definite agreement between the two Governments for the supply of specified quantities of coal to Pakistan there had been serious shortfalls in the quantities actually supplied by India. The Government of India had given various reasons for these shortfalls such as transport difficulties, shortage of wagons and so on. He believed there were occasions when Pakistan had to send wagons to India for fetching coal and these wagons had been lost for
several weeks. Now when it is borne in mind that despite the surcharge of over £1/- per ton Pakistan was still not obtaining prompt and adequate supplies of coal, how could they feel reasonably certain that compliance with the Chairman’s proposal without any clarifications or assurances from India would result in reciprocal benefit to Pakistan.

In these circumstances he submitted that Pakistan’s proposal for a meeting between the representatives of the two Governments was a very reasonable proposal and if India genuinely desired to accept the compromise proposed by the Chairman it was difficult to understand why she should refuse to accept this proposal. As far as Pakistan was concerned he was instructed to state that the Government of Pakistan was prepared to pursue the Chairman’s suggestion provided they were reasonably satisfied that the acceptance of these proposals would result in a two-way benefit and would not merely give unilateral advantage to India. For these reasons his Government considered it necessary that there should be talks regarding these matters in Karachi or in Delhi. The Pakistan Government would state the quantities of coal required by them over a reasonable period of time and would ask the Indian Government for assurances regarding its supply and transport facilities. They would on their part agree to supply specified quantities of jute over the same period and if agreement on these matters could be reached it was only then that the Chairman’s proposal could be carried out in letter and spirit.

In the autumn, during the Commonwealth Conference in London, the Indian Finance Minister had taken the initiative to suggest that a long-term arrangement might be worked out whereby specified quantities of coal would be assured to Pakistan and specified quantities of jute to India. The Pakistan Government considered the suggestion in accordance with the spirit of the proposals made by the Chairman, and had, therefore, indicated that they would like to pursue this matter also with the Government of India. They were now told that the latter country was not prepared to enter into discussion without the immediate suspension of the Pakistan jute charges. Mr. Aziz Ahmad pointed out that this attitude conflicted with the obligations of the Indian Government under Article XXIII which they were invoking. Instead of carrying out the required consultations and only coming to the CONTRACTING PARTIES in the event of failure to reach satisfactory adjustments, they demanded action by the CONTRACTING PARTIES while precluding in every manner the possibility of satisfactory adjustments in bilateral consultations. He, therefore, submitted that the question was not yet ripe for consideration by the CONTRACTING PARTIES under Article XXIII. This could only take place if the Government of India had consulted with Pakistan as proposed by Pakistan and had failed to reach a settlement.

Mr. SINGH (India) said that there was some confusion of issues in the statement of the representative of Pakistan: the questions of jute and coal were entirely independent of each other because jute levies were the subject of a complaint under Article XXIII whereas coal was not. With regard to the
documentation before the Committee he wished to point out that it was incom­plete and that he intended to have circulated further correspondence between the Governments of Pakistan and India.

At the end of the Seventh Session certain proposals had been made un­officially to both Governments by the Chairman of the Panel on Complaints. It was on the basis of these proposals that consultation was to take place. They were, essentially, that the suspension of the extra charges on coal and jute be considered, there being no implication that the trade in coal was in any way related to the trade in jute, nor that either country had adopted retaliatory measures against the other. Furthermore, the suggestion was made without prejudice to the ultimate disposal of the complaint before the CONTRACTING PARTIES: suspension of the special charges would not in itself prevent either Government from reimposing them at a future date, if it were necessary. During the Commonwealth Economic Conference in London representatives of India and Pakistan had informal discussions and it was suggested that long­term arrangements might be discussed, but the Indian Government representative made it clear that he was unable to enter into discussions relating to long­term arrangements until Pakistan accepted the proposal of the Chairman of the Panel and suspended the discriminatory levies on jute.

It was essential that a distinction be made between the long-term and the short-term aspects of the situation. The basic difference between India and Pakistan was that while India was prepared to implement in full the re­commendation of the Chairman of the Panel and thereafter to enter into long­term negotiations, Pakistan merely suggested early discussion of the Panel Chairman's proposal along with long-term arrangements. For the reasons already explained it was India's view that the implementation of the Chairman's proposal was a necessary pre­requisite to any further consultations. He re­affirmed that there was a case of discrimination which could not be dis­counted and for that reason his Government had made a complaint to the CONTRACTING PARTIES. India was prepared to accept the Chairman's proposal and suspend the charges on coal. The decision of the CONTRACTING PARTIES taken on 3 November 1952 was unequivocal and in categorical terms. It is clear that it was left to the Indian Government, in the light of the cir­cumstances and having regard to any consultations which might be proceeding between the two Governments, to request the CONTRACTING PARTIES to proceed to the discussion of the substance of the complaint. The circumstances, the trend and the result of consultations had already been explained. The second part of the decision of the CONTRACTING PARTIES was also satisfactory as a "reasonable period" had been allowed. The Chairman's proposal was transmitted to both Governments nearly three months ago. Therefore, the Indian Govern­ment felt justified in asking the CONTRACTING PARTIES to proceed with the discussion of the substance of the complaint.

Mr. AZIZ AHMAD (Pakistan) said that it was not his Government's intention to enlarge the issue at the proposed bilateral talks in such a manner so as to preclude the possibility of coming to an agreement on the basis of the Chairman's proposal. There had to be some understanding regarding a
reasonable period of time during which, under the Chairman's proposal, India would supply coal to Pakistan. As he had already stated, the initiative with regard to a long-term arrangement to cover the supply of coal and jute at the most favourable prices, had been taken by the Indian Finance Minister. Since this matter was strictly related to the basis of the Chairman's proposal, the Government of Pakistan naturally wished to discuss it at the meeting proposed by them for clarification of the proposal. His Government felt this course to be necessary if the Chairman's proposal was intended to resolve the difficulties which had arisen between the two Governments and if it was desired that these difficulties should be resolved in a manner beneficial to both countries. He could not agree with the delegate of India that it was open to his delegation to have the matter brought on the Agenda as and when thought fit by India. He had already referred to the relevant part of the CONTRACTING PARTIES' decision under which consideration must be given to any consultations which might be proceeding, or for that matter pending, between the two Governments.

From the very beginning India had consistently failed to comply with the provisions of Article XXIII, which laid emphasis on bilateral consultations before a matter could be brought before the CONTRACTING PARTIES. This is evident from the fact that, at the commencement of the Seventh Session of the CONTRACTING PARTIES, India desired to include this matter on the Agenda in that session even before their first representation to Pakistan which took place on 3 October 1952. At that time the Indian Delegation explained this by relying on so-called verbal consultations in the July trade negotiations. The Pakistan Commerce Secretary in his telegram of 29 January 1953, which had been circulated to the members of the Committee, had clearly refuted this. It would be seen from the Indian Commerce Secretary's letter of 23 January 1953, that an early reply from Pakistan was requested to enable the Indian Government to consider withdrawal of this complaint from GATT. On 24 January 1953 the Executive Secretary received a request from India to place the item on the Agenda of the Intersessional Committee. It would seem, therefore, that India was doing everything possible to preclude the possibility of consultations and of an adjustment being arrived at as provided in Article XXIII. He was instructed to state that his Government was prepared to consider and pursue the Chairman's proposal provided they could obtain necessary clarifications and assurances from the Government of India which would ensure that the adoption of the Chairman's proposal would be advantageous to both parties.

Mr. SINGH (India) noted that there had been no complaint made against India regarding coal, but they were prepared to accept the proposal of the Chairman of the Panel on Complaints although the jute and coal questions were not on the same footing. India was in fact justified in charging different prices for coal to different countries based on commercial considerations because coal is a State trading enterprise. If Pakistan were to suspend its discriminatory levies on jute the way would be clear for discussion of long-term arrangements. It was too late to say that there had been no consultations having regard to the correspondence exchanged between the two Governments.
The letter of 23 January 1953 from the Indian Commerce Secretary served to show how reluctant the Indian Government had been in asking for a discussion of the substance of the complaint, but a stage had now been reached when the provisions of Article XXIII, paragraph 2 applied, and the CONTRACTING PARTIES were being requested to act accordingly. The matter was urgent and the Indian jute industry had already suffered considerable damage.

Mr. Singh concluded by referring to a telegram sent on 31 January 1953 to the Pakistan Government in which it was reiterated that India considered the implementation of the Panel Chairman's proposal a necessary prerequisite to any long-term talks. It was added that should the Pakistan Government at any stage indicate to them their acceptance of the proposal, they would immediately suspend further action in GATT and arrangements could be made for a conference.

The CHAIRMAN said that it would be necessary to see the complete correspondence which was to be circulated by the representative for India before an opinion could be formed. The difference between the two contracting parties did not appear to be as great as he had at first thought. He suggested a possible solution would be for the representative for India to obtain instructions to assure the Pakistan Government that no obstacles would be placed in the way of coal shipments to Pakistan.

Mr. SINGH (India) replied that his Government was willing to accept the unofficial proposals of the Chairman of the Panel on Complaints.

The CHAIRMAN asked if Mr. Singh's reply could be taken to mean that the Indian Government would facilitate delivery of coal to Pakistan without the surtax.

Mr. SINGH (India) replied that the question of quantities of coal to be exported to Pakistan was not at present an issue and was a matter for negotiation. He, however, assured the Committee that the acceptance of the Chairman's proposal would mean removal of the charges on coal and consequently the price charged to Pakistan for coal would not be greater than for any other country.

The CHAIRMAN enquired whether the Indian authorities place obstacles on the purchase of coal for shipment to Pakistan.

Mr. SINGH (India) assured the Committee that there were no obstacles in the way of Pakistan purchasing coal from India, but transport difficulties existed. Coal was a State trading enterprise in India and distribution was controlled by the Coal Commissioner. Quantities were stipulated in trade agreements between India and Pakistan, but coal and jute had had to be omitted from the last trade agreement because of the dispute over levies on raw jute exports to India.
Mr. AZIZ AHMAD (Pakistan) pointed out that the export of Pakistan jute was solely in the hands of private individuals and was available to any purchaser whereas in India the export of coal was under state control. The Coal Commissioner was responsible for deliveries. It might well be that no licence was required for the export of coal, but the Coal Commissioner was a civil servant of the Government of India and it followed, therefore, that no coal could be exported unless the Government of India not only gave their approval but were also willing to provide the necessary transport facilities. His Government were prepared to state their requirements of coal over a period of 5 years.

Mr. SINGH (India) explained that the sale of coal to all countries was under the supervision of the Coal Commissioner. Quantities for sale were a matter for negotiation between the two parties. The way for such a negotiation would be clear as soon as the Pakistan Government suspended the discriminatory levies on jute exports to India.

The CHAIRMAN asked Mr. Singh whether the Indian authorities would assure an equitable share of coal to Pakistan at a reasonable price if Pakistan were to suspend their measures on jute.

Mr. SINGH (India) stated that every effort would be made to give reasonable facilities for coal exports to Pakistan subject to transport difficulties; but the question of quantity could only be settled by negotiation between the two Governments.

The CHAIRMAN thought the position had been somewhat clarified and, after the documents promised by the representative for India were circulated, the question would again be discussed by the Intersessional Committee.