CONSULTATIONS UNDER ARTICLE XII:4(b)

1. Paragraph 4(b) of Article XII reads, in part, as follows:

"The Contracting Parties shall invite any contracting party substantially intensifying such restrictions to consult within thirty days. The contracting party thus invited shall participate in such consultations."

The subject matters of such consultation with a contracting party, as may be inferred from paragraph 4(a), are "the nature of its balance-of-payments difficulties, alternative corrective measures which may be available, and the possible effect of such measures on the economies of other contracting parties."

2. The procedure for initiating consultations under this provision between sessions of the Contracting Parties was first laid down at the Third Session in GATT/CP.3/50/rev.1, and was modified at the Sixth Session as recorded in GATT/CP.6/52. Under the original procedure, the Chairman before instituting a consultation, was required to obtain by postal or telegraphic canvass a decision as to whether an invitation to consult should be extended to a contracting party and, if so, when and how the consultation should take place. The procedure as modified at the Sixth Session, to be applied as from the close of that Session pending any further modification of the overall intersessional procedure, provides that the power of deciding whether an invitation to consult should be extended to any contracting party and whether such consultation should take place at the next ordinary session or otherwise, should rest with the Ad Hoc Committee on Agenda and Intersessional Business.

3. When, in November 1951, the United Kingdom and French Governments announced modifications of their import controls, the Executive Secretary, on behalf of the Chairman, entered into formal discussions with them regarding the possibility of action by the Contracting Parties being required under the second part of the first sentence of Article XII:4(b). These discussions were entered into within the thirty-day period specified in that passage for the initiation of consultations. In December, the Chairman called a meeting of the Ad Hoc Committee for 14 January to consider whether the modifications constituted "substantial intensification" within the meaning of Article XII:4(b). At its meetings in January and February 1952 (GATT/IC/SR/1,2 and 3), the Committee considered these cases and also that of Southern Rhodesia, while in March an attempt was made by the Committee through postal consultation to reach agreement concerning measures introduced by the Government of Australia. The conclusions reached by the Committee on the four cases are as follows:
(a) France

In February 1952, the French Government advised that it had been obliged to modify its existing system of quantitative restrictions on imports. The Committee agreed, at its meeting on 25-26 February, that the various emergency measures introduced by the Government of France constituted a substantial intensification of the French restrictions and that, therefore, the Government of France should be invited to consult under Article XII:4(b), the consultation to take place during the Seventh Session. The French Government confirmed that it was prepared to consult.

(b) United Kingdom

In November 1951 the United Kingdom introduced new measures affecting its imports from certain countries. The Committee was convened by the Chairman to consider these measures which constituted a prima facie case of substantial intensification. The United Kingdom Government, however, was of the opinion that the action taken merely constituted some reduction in the facilities for the admission of "additional imports" in the sense of Annex J and that the United Kingdom Government was therefore only required to inform the Contracting Parties of the measures in accordance with paragraph 2 of that Annex. At the close of the meeting on 15 January the Committee agreed as follows:

"The contention of the United Kingdom Government that the import restrictions announced in November 1951 did not constitute a substantial intensification requiring consultations 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 fact that (1) discussions had taken place or were in progress through the OECD 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's contention should be deferred for further consideration, if necessary, at the Seventh Session......"

The United Kingdom Government adopted further measures to reduce its external expenditure in February 1952 and notified the Chairman in accordance with the agreed procedure. The Committee examined the new measures and, with the concurrence of the United Kingdom representative, reached the following conclusion:

"Without prejudice to the question discussed at the Committee's meeting in January, 1952, namely whether the measures introduced by the United Kingdom Government in November 1951 call for consultations under Article XII:4(b), and in view of the fact that those measures taken together with those introduced in January 1952 amount to a substantial intensification of the United Kingdom's restrictions on imports, the United Kingdom should be invited
to consult with the Contracting Parties in terms of Article XII:4(b), the consultation to take place concurrently with the consultation with the United Kingdom under Article XIV:1(g)."

(c) Southern Rhodesia

The Government of Southern Rhodesia extended its import controls in January and notified the Contracting Parties in terms of paragraph 2 of Annex J. The Committee, after considering this action at its meeting on 25-26 February, agreed that "the question of the new restrictions imposed by Southern Rhodesia and notified in GATT/CP/138 should be examined at the Seventh Session concurrently with the consultations with that country under Article XIV:1(g)". Therefore, the Contracting Parties are asked to determine whether the Government of Southern Rhodesia should be invited to enter into a consultation under Article XII:4(b).

(d) Australia

In March the Australian Government transmitted statements relevant to new restrictions on imports from non-dollar countries. Upon receipt of this information, the Chairman and Executive Secretary advised the members of the Intersessional Committee that the Australian Government had expressed its willingness to consult under Article XII:4(b) and invited them to indicate whether they agreed that Australia should be invited to consult. One member of the Committee was not prepared to agree that an invitation be extended forthwith on the basis of the information then before the Committee, since the measures appeared to relate to imports admitted on a discriminatory basis in pursuance of Article XIV; it would therefore, in the opinion of that member, be appropriate, as in the earlier instance when the Committee first considered the United Kingdom measures, to defer a decision on the new Australian restrictions. In view of the question of interpretation involved, which in view of the Committee's decision in the case of the United Kingdom measures was not likely to be resolved by a meeting of the Committee, it was decided to defer a decision until the Seventh Session. Therefore the Contracting Parties are asked to determine whether the Government of Australia should be invited to enter into a consultation under Article XII:4(b).

4. Accordingly, invitations to consult with the Contracting Parties under Article XII:4(b) were addressed to the Governments of France and the United Kingdom. The Governments of Australia and of Southern Rhodesia were advised of the possibility that they might be invited to consult at the Seventh Session, the decision to be taken by the Contracting Parties on the basis of information then available.

5. The International Monetary Fund was invited, and agreed, to consult, as required by Article XV:2, with the Contracting Parties in connection with the consultations which have been initiated with France and the United Kingdom. The Fund was also advised of the possibility that Australia and Southern
Rhodesia might be invited to consult at the Seventh Session, and has replied that in that eventuality it will be prepared to consult with the Contracting Parties under Article XV:2. Any relevant documents which the Fund may supply in relation to these consultations will be distributed as soon as they are available.

6. The procedure for the initiation of consultations when the Contracting Parties are not in session, outlined in paragraph 2, involves a preliminary determination as to whether a prima facie case of substantial intensification exists, such as to justify the convening of the Intersessional Committee. For this purpose the Committee recommended at its meeting in January (GATT/IC/3 & SR.2) that any contracting party intensifying its import restrictions should furnish detailed information promptly to the Executive Secretary; that this information should be circulated immediately to the contracting parties; and that upon the basis of this information, the Chairman and the Executive Secretary should determine whether there is a prima facie case for initiation of a consultation under Article XII:A(b). This amendment of the procedures for initiating consultations, proposed by the Ad Hoc Committee on Agenda and Intersessional Business, is hereby submitted to the Contracting Parties for approval.

7. At a third meeting in September the Committee considered the information then available reflecting an intensification of restrictions by several other contracting parties, namely Brazil, Ceylon, Chile, Finland, Indonesia, New Zealand, Pakistan, Sweden and South Africa. Some of this information had been furnished by the governments concerned and the remainder had been obtained from press reports. The Committee concluded that the information available was insufficient to enable them to determine whether the modifications in the import control of any of these countries would bring Article XII:A(b) into play.

8. The principal sources of information on the restrictions maintained by the consulting governments are the data furnished in response to the questionnaires issued in connection with the annual reports under Article XIV:1(g), namely GATT/CP/39 of 7 October 1949, GATT/CP/89 of 8 January 1951 and GATT/CP/132 of 4 December 1951. One copy of each reply was supplied to each contracting party and in addition the replies to the first questionnaire have been reproduced in GATT/CP/62. Statements submitted by the consulting governments, containing specific information on the measures of intensification introduced since the Sixth Session, have been circulated in the following documents:

- Australia: L/3; L/18
- France: GATT/IC/2, GATT/CP/144 & Add.1; L/10
- Southern Rhodesia: GATT/CP/138 & Add.1; L/4
- United Kingdom: GATT/CP/134 & 143; L/2

9. To assist the Contracting Parties, the secretariat has assembled data relevant to each of these consultations. These are presented in the form of a note for each country summarising the statements submitted by the consulting governments and other relevant data. It should be noted that, since the
conclusions regarding the invitations or possible invitations to consult were reached by the Intersessional Committee, each of the four governments has introduced further measures affecting imports. These new measures are described in the notes together with the measures on the basis of which the Committee reached these conclusions.

Points for Decision

Paragraph 3(c)

Paragraph 3(d)

Paragraph 6
Measures announced on 7 November 1951 (GATT/CP/134)

The measures taken by the United Kingdom Government in November 1951 included the following:

(i) Revocation of certain open import licences issued in pursuance of the policy of liberalising trade with EPU and certain other soft-currency areas and their replacement by quota arrangements; together with certain reductions in imports of goods not previously on open licence. (The open licences which were thus revoked, had applied to imports from OEEC member countries, the sterling area and certain non-dollar countries, and the new measures of suspension applied to imports from all these sources except the sterling area.)

(ii) Limitation of expenditure on food imports. (The major part of the cut was on imports on government account from Western Europe and from countries not parties to the General Agreement), and

(iii) Slowing-down of strategic stock-piling.

It was estimated that the suspension of the liberalization measures under (i) would result in an economy of about £130 million of foreign exchange expenditure in a year. The action under (ii) and (iii): together with a cut in tourist allowance, was expected to result in an economy of £220 million. This, together with the £130 million saving from restricting soft-currency trade on private account, would make up a total reduction of about £550 million a year. (This total represents a reduction from the level of expenditure previously expected in 1952, not from the actual level of expenditure in 1950-51).

Measures announced on 29 January 1952 (GATT/CP/143)

These included a reduction in the purchase of foodstuffs and raw materials which was expected to save £75 million and a reduction in the planned level of stocks of tobacco, a saving of £22 million. Taking account of a further saving of £30 million by measures outside the scope of the Agreement, the total reduction in external expenditure aimed at amounted to £150 million in 1952.

Measures announced on 11 March 1952 (L/2)

The third set of measures, announced in connection with the annual budget, involved a reduction in the 1952 import programme of approximately £100 million. Part of this reduction was to be effected by the withdrawal of open general licences for a number of commodities. It was stated that decisions had not been taken on the precise extent to which imports of individual classes of goods would be reduced, nor on the details or methods of licensing to be applied to them but that these were being worked out and further information would be furnished to the Contracting Parties as and when possible.

Measures announced on 23 July 1952

The Government announced that there would be further reductions in the buying programmes for the second half of the year, with the result that imports of manufactured goods, other than machinery and defence supplies, would be about 40% less than in the second half of 1951. For 1953, the Government have decided to limit import programmes from non-sterling countries strictly to what the country could afford.
The United Kingdom has not submitted further details of the measures taken, but it is understood that licences for the ex-liberalized goods on which import restrictions were reimposed in March are for the most part being issued under a system of global quotas similar to that applied to most of the goods deliberalized in November 1951. The goods in question have been grouped into 36 categories and values have been announced for the quota to be allotted to each category for imports up to the end of 1952.

Likewise the system of global quotas introduced for goods made subject to restrictions in November 1951 has been continued and the quotas for the six months July-December 1952 have been announced.

The Import Cuts as a Whole

The following passages are taken from The Economic Survey for 1952 (Cmd. 8509) published by the United Kingdom Government in April 1952:

"The total 1951 cost of the United Kingdom's imports in 1951 was just under £3,500 million, including stock-piling. In volume these imports were 16 per cent greater than in 1950, but as already explained imports in 1950 were exceptionally low, and stocks were run down in consequence. In view of this the increase which took place in 1951 was not particularly striking. The biggest volume increases were in fuel and materials, notably crude oil, timber, paper and pulp, rubber and textile yarns and manufactures (mainly for processing). Imports of wheat, feedingstuffs, cheese, tea and unrationed foods all increased (including purchases for stock) but there were smaller imports of meat, butter and eggs. Of total expenditure on imports in 1951 21 per cent was in the dollar area, 43 per cent in other non-sterling countries and 36 per cent in the overseas sterling area.

"The original programme for overseas expenditure in 1952 provided for broadly the same consumption of food as in 1951, for an increase in raw material consumption to support greater industrial activity, for substantial imports of machine tools and other defence equipment, for some small rebuilding of commercial stocks and for additions to the strategic stockpile. The Government has decided to reduce this programme by £600 million in such a way that industry will continue to get the essential supplies needed to support an expansion of production, so long as these supplies are available to buy. This means that the cuts must fall mainly on food consumption and on stock-building of food, tobacco and raw materials. As a result consumption of non-rationed foods in 1952 will be substantially less than in 1951, and many of the increases previously hoped for in strategic and commercial stocks will have to be foregone. There should not, however, be any appreciable net reduction in total stocks of imported commodities during 1952. Some of the £600 million savings will also come from reductions in invisible expenditure on tourism, shipping freights and Government expenditure overseas.

An intensification of restrictions has been announced by the governments of several of the dependent territories, but no information has been furnished by the United Kingdom Government."
In order to secure the necessary reduction in imports in 1952, the Government has had to revoke certain Open General Licences originally issued in accordance with the trade liberalization policy of the Organization for European Economic Co-operation. These Open General Licences have been replaced by import quotas issued on a scale designed to result in a saving of approximately £150 million of foreign expenditure in 1952. In selecting commodities to be subjected to import restrictions, the Government has tried to keep as large a proportion of trade as possible on Open General Licence and to encroach as little as possible on the OEEC Common List, which is the basic list of items for which the OEEC was seeking abolition of quota restrictions. Out of the total of £150 million, about £100 million is in respect of food; the remainder represents cuts in raw materials and manufactured goods, including textiles.

The import restrictions are expected to result in a volume of imports in 1952 nearly one-tenth smaller than last year. This will be less than the volume normally imported in the years immediately before the war, in spite of the growth of 6 per cent in population and the great increases in industrial production which have occurred since then. The cuts have had to be made because there was no other way of dealing quickly and directly with the drain on the gold and dollar reserves, but they do not offer anything more than a partial temporary solution to the problem. The possibilities of increasing overseas earnings must therefore be exploited to the full.

Previous Contracts and Hardship Cases

In administering the import restrictions announced in November 1951, the Government did not admit all goods covered by firm contracts concluded before the announcement of the restrictions, but licences were issued for imports covered by irrevocable credits. In addition, the Government undertook to give sympathetic consideration to hardship cases sponsored by the governments of other member countries of the OEEC where it could be shown that, in the absence of a special licence, goods covered by prior contracts could not, without considerable loss, be sold elsewhere or be retained in the country of origin pending a further issue of import licences.

When the United Kingdom took further de-liberalization measures in March 1952, it was decided to make special efforts to issue licences for the importation of all goods for which it could be shown that firm contracts had been concluded before the announcement of the new restrictions; that is, special consideration for cases covered by firm contracts was not on this occasion confined to cases involving confirmed credits or hardship. This policy has been applied without any other reserve than the need to be satisfied as to the validity of the claims made.
At the first meeting of the Intersessional Committee, held in January 1952, the French representative circulated a statement which concluded that "in view of the rapid decline in the hard-currency reserves of France before the conclusion of any arrangements with the United States Government whereby France would secure the necessary resources in United States dollars, the rate of dollar imports by France had to be temporarily slowed down a few weeks ago, both as compared with imports in the previous year and with figures originally envisaged by the French Government for 1952. Dollar imports will be restored to the rate originally envisaged as soon as currency availabilities permit" (GATT/IC/2). The French representative on the Committee added that no final decision had been taken and that no modifications to the French imports from the sterling area were foreseen (GATT/IC/SR.2).

By a notice to importers published in the Journal Officiel of 4 February 1952, licensing requirements were re-established for imports originating in or consigned from OEEC countries. An exception was made for a series of products which were listed in an annex to that notice. These products, mainly raw materials and representing more than forty per cent of French trade (basis: 1948), would continue to be imported freely (see Note of 13 February 1952 by the French Government in GATT/CP/144). But this exception was withdrawn a week later when the French Government, by a notice published in the Journal Officiel of 19 February, informed importers of the complete suspension of trade liberalization (see Note of 10 March 1952 by the French Government in GATT/CP/144/Add.1).

The French Government then drew up an import programme for April, May and June with a view to enabling the resumption of trade with the OEEC countries under conditions within the financial means of the country. The general principle underlying the programme is that the whole of the imports from the EPU area should be covered by the proceeds from exports to that area. The monthly ceiling was fixed at 140 million dollars (EPU units). The resources thus made available were allotted under three headings:

(a) Irreducible requirements - $100 million
(b) Maintenance of the traditional structure of trade (quota sector and ex-liberalized sector) - $28.5 million
(c) Reserve provided because of the uncertainties in various elements of the overall balance of payments and in order to meet unforeseeable contingencies - $11.5 million.

The draft allocation by products and an estimate of imports from each country which might be affected under the scheme were also communicated to the OEEC. The whole of the problem raised by the action taken by the French Government was thoroughly examined by the OEEC. By a decision of 10 April 1952, the Council of OEEC recognized that France was justified, by invoking the Code of Liberalization, to suspend the liberalization measures previously taken. Subsequently, the French import programme was dealt with, on 10 May
1952, in a "Recommendation" by the Council which, in approving the programme, recommended to the Government various measures designed to facilitate its application (see Note by the French Government of 24 May 1952 in L/10).

An import programme for the third quarter of 1952 was submitted to the OEEC on 21 June. The French Government considered that the principles on which the programme had been based should remain unchanged. Hence in its general composition, the programme for the third quarter was merely an extension of the programme in force, except for a lowering of the ceiling. The monthly ceiling, which had been $140 million in the second quarter, was reduced to $125 million, divided as follows:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irreducible requirements:</td>
<td>$92.5 million</td>
</tr>
<tr>
<td>Traditional imports:</td>
<td>$27.8</td>
</tr>
<tr>
<td>Reserves for unforeseen expenditure:</td>
<td>$4.7</td>
</tr>
</tbody>
</table>

(See Note of 26 August 1952 by the French Government in L/21 which refers to a statement of France submitted to OEEC and reproduced in C(52)P81.)

When the Government decided on 19 February completely to suspend liberalization, a formal exception was made in favour of goods already en route. In fact, however, imports of commodities in the ex-liberalized sector were also allowed in certain cases, and contracts in force on either of the dates on which the suspension took effect were allowed to be fulfilled provided that the "dossiers de domiciliation" were lodged with the banks before the respective dates of suspension. The French Government reserved the right to check whether or not the contracts in question were of a speculative character, in particular by a comparison between the imports covered by those contracts and those effected during the corresponding period of 1951. The facilities making possible such accommodation are understood to have been provided in the second quarter of 1952 by the "unconditional part" ($6 million) of the portion ($11.5 million) reserved for unforeseen purposes in the $140 million programme.

**SOUTHERN RHODESIA**

Since 1947 Southern Rhodesia has operated a control of imports from the dollar area on the basis of dollar earnings. By a government notice of 19 December 1951, the import control was extended to cover imports from non-dollar areas outside the sterling area. This extension was said to have been occasioned by the necessity of maintaining a balance between the country's total payments on non-sterling account and earnings from those areas. The control over non-dollar non-sterling imports was to be administered separately from the dollar import control (see Notes by Government of Southern Rhodesia in GATT/CP/138 & Add 1).
The dollar control was originally given a total allocation of £7,361,000 for 1952, to be divided into global amounts for the various groups of products. The total allocation for imports from non-dollar areas outside the sterling area was £8,712,000 for 1952 to be divided in the same manner. These allocations were based on the following considerations: earnings of non-sterling and dollar currencies in 1951 were slightly in excess of £12 million and it was assumed that this would increase to £14 million in 1952. Assuming the proceeds from gold sales to be £6 million, the total foreign currency available for payments would be some £20 million. After allowing for freight insurance and invisibles, an amount of £16 million would be available for imports at f.o.b. prices.

The annual allocations were divided into two periods of six months each. The six-months period ending 30 June 1952 is designated "Period 8". On 10 March the Government announced that, with certain exceptions, all foreign currency allocations for Period 8 would be reduced by 50 per cent (see statement by the Southern Rhodesia Government in I/4). But by a communication of 2 May, the secretariat was informed that:

"the full allocations for Period 8 have been restored in respect of the groups under the Rhodesia Federated Chambers of Commerce only, but these restored allocations will now run for the whole of 1952 instead of until the end of June only. No further allocations are proposed in these cases for Period 9. This variation of the general 50 per cent reduction has been made for administrative reasons."

In a schedule supplied by the Southern Rhodesian Government on 23 June 1952, which has been distributed to the contracting parties; in connection with the annual report required under Article XIV.1 (g); there were given the revised allocations of foreign exchange for the various classes of imports under the dollar and non-dollar controls. The following are the total allocations compared with previous actual imports (the Southern Rhodesian Government has, however, stated that the figures of imports and allocations are not in all cases strictly comparable):

<table>
<thead>
<tr>
<th></th>
<th>1951 Imports</th>
<th>January-June 1952</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dollar area</td>
<td>£ 5,429,163</td>
<td>£ 2,285,241</td>
</tr>
<tr>
<td>Non-dollar, non-sterling area</td>
<td>10,644,243</td>
<td>3,422,324</td>
</tr>
</tbody>
</table>
Extension of Import Control to non-dollar Countries (L/3)

The extension of import licensing control to goods from all countries, except the Australian external territories, was announced by the Australian Government on 7 March 1952 and a notice was promulgated in the Commonwealth Gazette of the same date. For the purpose of the new restrictions, imports were divided into three categories. The import of goods in Category "A" was to be limited to an annual value equivalent to 50 per cent of the value of similar imports in the year 1950/1951, which was taken as the base year for the calculation of quotas under the new licensing scheme. Goods included in Category "B" were to be restricted to a total annual value not exceeding 20 per cent of the value of all such goods in the base year. The remaining items which have since been grouped together under Category "Adm." included those which did not lend themselves readily to quota treatment and were to be subject to administrative control. A fourth category was introduced more recently providing for the import of certain goods on the basis of varying percentages of base-year imports; the percentages used at present are 80% and 100%.

Licences issued under any quota were to be valid for imports from any source except the dollar area and Japan, and a special simplified procedure was provided for licensing goods which had already been in transit from overseas ports before 8 March 1952 and which had been paid for. When an irrevocable letter of credit had been established or a commitment of an equally binding nature had been incurred for goods which were on firm order prior to 8 March, the Government undertook that an import licence would be issued.

Petroleum products, although under administrative control, were to be licensed on a quota equal to 100 per cent of imports in the base year.

Re-examination of Dollar Import Licences (L/19)

On 20 March 1952, the Government recalled for examination all import licences already issued for goods of dollar area origin, and for all other goods which had been subject to licensing control. To minimise inconvenience to holders of licences, this review was carried out through the Collector of Customs in each State. Import licences for goods which were being purchased from the United States or Canada under the International Bank loan, and licences for bulk petroleum products were not affected by the new measure.

On 9 May 1952, the Minister for Trade and Customs announced that up to that date more than half of the total value of recalled licences had been confirmed. The Government had considered a report on the outstanding licences still unconfirmed (these totalled some £35 million) and directed
that cancellations be made so as to effect a saving of about 20 per cent of the unconfirmed value - that is, a saving of about £7 million.

Further economies were achieved by reason of the fact that as from the date of recall of outstanding dollar import licences (i.e. 21 March 1952) until the end of May, 1952, there was a virtual standstill in the issue of new dollar import licences. At the end of May licensing was resumed under a revised programme covering the period up to 30 September 1952, but at a rate lower than that provided for in the 1951/52 licensing year.