SUMMARY RECORD OF SECOND SPECIAL MEETING

Held at Annecy on Wednesday,
15 June, 1949 at 10 p.m.

Chairman: Mr. PERRY (Canada)

Final Report of Working Party 3 on New Import Restrictions
Contemplated by the Union of South Africa (10 June, 1949).

Mr. PERRY (Chairman of Working Party 3) presented the report with a brief explanation.

Mr. CLARK (Australia) commented that, in the view of his delegation, the subject matter of paragraphs 37 and 38, Allocation of Preliminary Permits, was entirely a matter of domestic concern which should not be included in a report resulting from consultation under Article XII 4 (a). He suggested that Articles XXII and XXIII could be resorted to in cases where contracting parties having a considerable interest felt that their trade had been adversely affected. He proposed the deletion of paragraphs 37 and 38.

Mr. BRONZ (United States of America) explained that in the Working Party the Australian representative had put his views regarding paragraphs 37 and 38 at some length, resulting in considerable discussion in the Working Party. Paragraph 37 did not purport to set forth the views of the entire Working Party, but rather of certain members of the Working Party. In that respect this paragraph represented an accurate account of its work. He and other representatives supporting his view were in agreement that it was no concern of the Working Party whether or not South Africa accorded fair treatment to individual importers. This was
made clear in the penultimate sentence of the paragraph. However, as set forth in the final sentence of the paragraph, when allocation of quotas affected the interests of other contracting parties it ceased to be purely a matter of domestic concern. He pointed out that under the scheme contemplated by South Africa, importers who purchased from the sterling area in 1948 would begin with a larger quota than those having purchased outside the sterling area, which would affect adversely the interests of non-sterling area countries, as well as possibly affecting the future competitive position because of precedents established now. If South Africa introduced a demand of discrimination in the domestic implementation of its import control scheme, it was no concern of the Working Party, so long as the discrimination was not based on foreign sources of supply. But when such discrimination was based on past purchases from one group of contracting parties as against another, it raised the question of mfn treatment under GATT. He felt that paragraphs 37 and 38 should be retained in the report since they represented accurately the views of certain members of the Working Party.

Mr. JOHNSON (New Zealand) pointed out that South Africa would have available during the first period of the new import control scheme sufficient exchange for essential goods only. If the quota allocation from one source of supply was reduced because insufficient currency was available, South Africa would have to give consideration to an increased allocation from another source in order to compensate for any decrease in imports. He supported the views expressed by the Australian representative.

Mr. REISMAN (Canada) pointed out that his delegation had associated itself in the Working Party with the views expressed in paragraph 37. He felt that the delegations supporting the views expressed in paragraph 37 had made it clear that allocation of permits by South Africa on any basis selected was a matter of domestic concern, but that if such allocation
affected the competitive position of other contracting parties, then such allocation became a matter of concern to the Contracting Parties. It was only to this extent that the subject had been included in the Working Party's report. His delegation preferred to retain paragraphs 37 and 38 in the report.

Mr. JOHNSON (New Zealand) expressed the view that the future competitive position would depend upon the basis on which permits were granted in the future. He felt that paragraph 37 could be clarified and proposed changing the words "necessarily had" in the 9th line to "might have" so that the sentence would read: "However, they pointed out that a quota allocation depended upon the individual importer's choice of foreign source of supply in a base period might have an impact on the future competitive opportunities of other countries in the South African market".

Mr. WUNZ KING (China) proposed substituting the word "conceivably" for the word "necessarily" in paragraph 37.

Mr. RAISSAN (Canada) did not feel it was necessary to change the wording of paragraph 7.

Mr. BROWN (United States) commented that these paragraphs did not purport to report the views of the Working Party as a whole or of the CONTRACTING PARTIES but only certain members of the Working Party. On this he did not feel that the proposed changes in wording were in order. The paragraphs as they appeared in the report had been agreed to in the Working Party as a compromise. If this compromise were not accepted as final, he would have to submit a longer text which he had previously proposed in the Working Party and which set forth more fully the views of the United States delegation and other delegations sharing those views.

Mr. SHACKLE (United Kingdom) said that his delegation would have preferred to see paragraphs 37 and 38 omitted but that he was not now
suggesting their deletion. If they were to be retained, however, he felt that some adjustment in the wording would be desirable. To be correct, the paragraphs should refer not to a flat but to a differential quota because the latter would not be discriminatory. For example, he would favour the deletion of the word "a" before the word "quota" in the 8th line and the substitution of the word "discriminatory".

Mr. CLARK (Australia) agreed with the representative of the United States that these paragraphs represented a fair statement of what took place in the Working Party but did not agree that they should be included in the Working Party's report since they were strictly outside the Working Party's terms of reference.

Mr. STEINK (South Africa) stated that his delegation felt the inclusion of paragraphs 37 and 38 to be unfortunate but since he could not succeed in convincing their colleagues of this view his delegation had agreed to that insertion. He, therefore, wished to associate himself with the view now expressed by the United States representative and to urge that if new changes were made in these paragraphs, they should not be substantive changes.

Mr. BRONZ (United States) thanked the South African representative for his fair statement of the position in the Working Party and expressed the hope that the Contracting Parties would respect the wish of the South African representative to leave the text unchanged.

Mr. PHILIP (France) moved the closure of the debate on the ground that it would not be desirable to discuss afresh the text as agreed in the Working Party which set forth the views of certain members of the Working Party. His delegation favoured the text of paragraphs 37 and 38 as included in the report.
Mr. CLARK (Australia) asked the chairman to take the sense of the Contracting Parties not as to the substance of these paragraphs but merely with respect to the propriety of their inclusion in the report.

The Chairman in putting the question as to whether paragraphs 37 and 38 should be deleted, pointed out that the question of the substance of these paragraphs was not being considered.

It was agreed to retain paragraphs 37 and 38 in the report by a vote of 2 for the deletion and 9 against.

Mr. SHACKLE (United Kingdom) called attention to paragraph 32.

"The United Kingdom representative stressed that this point was not in any sense made as a threat or for bargaining purposes but as one of the most important possible effects of the South African measures on the economies of other contracting parties which should be brought to the attention of the Union Government in the present consultation. He expressed the hope that the occasion which was felt necessary to mention in this sentence would never arise. With respect to paragraphs 34 and 35, Mr. Shackleton commented that the implication that certain members did not concur in views expressed by certain other members was particularly applicable in the case of those paragraphs.

Mr. CASSIERS (Belgium) stated that his government was of the opinion that the application of discriminatory measures by contracting parties unless justified by a special exception specified in the agreement would constitute a blow to the whole fabric of International Trade established by the Contracting Parties. His government felt that it was impossible to condone any infringement of the underlying principles of the General Agreement. He stressed that the South African Government had made an effective contribution in stating that it will observe the requirements of the General Agreement in the administration of its measures and he expressed his appreciation to them for adopting that course. The United Kingdom insofar as it was concerned had given the
same assurances. Such formal declarations should, in his view, reassure other contracting parties and guarantee that, if any discrimination were involved in the contemplated South African measures, this deviation from the non-discriminatory principles would be consistent with the exceptions provided for in the Agreement. It was only under these circumstances that such discriminatory measures could be agreed to. He pointed out further that, in that respect, it was necessary that South Africa keep the Contracting Parties fully informed as to the facts regarding any discriminatory measures adopted, to limit the use of such measures to a certain period of time and to eliminate such measures when the need for them no longer existed.

Mr. L. MACCAUSLAND THOMPSON (United Kingdom) stated that the undertakings referred to by the Belgian representative were incorporated in the General Agreement, annex J, and that it was not necessary to ask from South Africa or the United Kingdom any further formal undertaking in this respect.

Mr. BRONZ (United States) commented that this consultation with South Africa was unique and represented an important step in international collaboration. He expressed his appreciation of the comprehensive attitude shown by South Africa during this consultation, and he expressed the hope that the South African Government would give careful consideration in finalizing its plans to the views expressed in this report by other contracting parties.

Mr. PATIJN (Netherlands) stated that his government wholeheartedly supported the remarks of the representative of Belgium.

The Final Report of Working Party 3 on New Import Restrictions Contemplated by the Union of South Africa was approved.
Mr. STEIN (South Africa) stated, that in accordance with paragraph 47 of the Report his delegation proposed to submit to its government this report as an indication of the views of the Contracting Parties and expressed his confidence that when formulating any final plans for long-term import control, his government would take into consideration the views expressed by the Contracting Parties.

It was agreed that the final report should be distributed as a restricted document and that a press release concerning this report should be issued in consultation with the South African delegation and the International Monetary Fund.