1. The Rome Treaties (L/886, Sec. I(a))

The CHAIRMAN recalled that at the Twelfth Session the CONTRACTING PARTIES had instructed the Intersessional Committee - which, for this purpose, comprised all contracting parties - to "continue the examination, in the light of the provisions of the General Agreement and of the relevant provisions of the Treaty of Rome, the problems likely to arise in the application of the Treaty and the means that might be developed to establish effective and continuing co-operation between the CONTRACTING PARTIES and the European Economic Community". The report of the Committee on the action taken in carrying out this mandate was contained in Section I(a) of document L/886. The Committee had met at the close of the Twelfth Session to implement a Recommendation of the CONTRACTING PARTIES that a working party should be established to undertake a study of the problems which the association of overseas territories of the Member States raised for the trade of other contracting parties. The Working Party, then appointed, had held a series of meetings in February, March and April and its report had been submitted to the April meeting of the Intersessional Committee.

In April the Committee had discussed some of the issues raised at the Twelfth Session concerning the establishment of the Common Tariff, the use of quantitative restrictions and the Community's agricultural policy, but had concluded that it would be more fruitful if the Committee were to direct its attention to "specific and practical problems, leaving aside for the time being the questions of law and debates about the compatibility of the Rome Treaty with Article XXIV of the General Agreement". The Committee had considered that the normal procedures of the Agreement, and also the techniques and traditions of the CONTRACTING PARTIES in applying the procedures, were well adapted to the handling of practical problems; it had appeared to the Committee that the procedures of Article XXII would be the most appropriate for this purpose. Accordingly, the Committee had
agreed upon procedures for dealing with such problems by means of con-
sultations under Article XXII between Members of the Community and other
contracting parties. The principal purpose of these procedures was to
provide the framework within which a consultation initiated by a contracting
party could be broadened, so as to include other contracting parties having a
"substantial trade interest" in the matter under discussion and which
wished to be joined in the consultation. These procedures had been approved
by the Council and the Commission of the EEC in communications which had
been circulated to all contracting parties in document L/822 and Add.1.
It was intended that such multilateral consultations on questions affecting
the interests of a number of contracting parties would facilitate the
observance of the basic principles and objectives of the General Agreement.
Thus, the procedures proposed by the Committee were not intended to relate
only to consultations between contracting parties and Members of the
European Economic Community, but for any consultations under Article XXII
on matters affecting the interests of more than one contracting party.
The procedures adopted by the Committee were set out on page 3 of L/886.
This text, however, included a few amendments proposed by the Executive
Secretary to take account of points raised at the September meeting of the
Committee. The amendments were intended to provide a time-limit for
requests to be joined in a consultation and to make it clear that it was
only the contracting party to which such a request was directed that needed
to give its agreement.

The Chairman invited the CONTRACTING PARTIES to approve the Committee's
report on the action it had taken since the Twelfth Session, including the
procedures for consultations under Article XXII, as amended, and asked the
CONTRACTING PARTIES to consider how they wished to proceed with the item on
the agenda.

Mr. PAPPANO (United States) pointed to the fact that the Rome Treaty
had been in effect for ten months. It was very interesting to reflect on
what had happened during that period. When bearing in mind the organizational
problems which had faced the Community, the progress achieved on substantive
issues was noteworthy. It was well known that the United States considered
the creation of the EEC one of the significant historical developments of
this age and believed that the full realization of the objectives of the
Treaty was essential and that it was of the utmost importance that this
movement towards integration in Europe should succeed. Inevitably, certain
problems would arise as steps were taken to implement the Treaty. To obtain
the benefits which would be forthcoming as the Community took measures in
accordance with the stated objectives of the Treaty, changes would occur in
the pattern of the trade of the Six with outside countries, and in the
pattern of trade among the Six themselves. When Ministers at the Twelfth
Session and again at the present Session had recognized the great importance
of this effort, they had at the same time recognized that certain trade
problems would arise. All contracting parties must co-operate in order to
make trade benefits outweigh disadvantages.

The United States had consistently pointed to four major areas in which
trade difficulties might well develop. These were tariffs, the use of
quantitative restrictions for balance-of-payments reasons, agriculture, and
the association of overseas territories. In each of these areas the problems
were capable of being solved in a way that would not interfere with the full and effective development of the Treaty. The statements of two members of the Commission, Messrs. Mansholt and Rey, had been reassuring. The consultative procedure which had been set up in April should provide a practical basis for finding ways of overcoming specific difficulties.

The United States were constantly considering ways to alleviate these difficulties. The tariff programme which Mr. Dillon proposed was one result of these considerations. If all contracting parties continued to think and work creatively on these problems results could be arrived at which would be beneficial to all.

Mr. JARDINE (United Kingdom) recalled that when the Treaty of Rome was discussed at the Twelfth Session, many contracting parties, while conscious of the advantages which the Common Market could bring to world trade, had expressed anxieties on several points. However, he did not intend to retrace these previous discussions and his delegation was prepared to approve the Intersessional Committee's Report on action it had taken since the Twelfth Session. While on the one hand certain anxieties had been allayed, on the other hand assurances had been given by the Community of the desire to take into account the interests of other contracting parties. In particular, his delegation had noted with satisfaction the statement of the representative of the Commission of the Community that it was confronted with responsibilities and obligations of a world-wide nature and that it was hoped it would be possible to forge closer relations within the GATT. Nevertheless, in spite of these general assurances, particular anxieties remained.

Mr. Jardine considered it inappropriate to reiterate his delegation's views about the legal issues involved in the association of the overseas territories with the European Economic Community. On the practical issues, however, his delegation had been pleased to note that on some of the principal products concerned consultations under Article XXII had already commenced and that consultations were due to begin on others. It would not be known whether the concept of leaving legal issues aside and concentrating on the practical problems was sound in the long run until it could be seen what progress was made in those consultations. His delegation certainly did not consider that the alleviation of the adverse effects of duties on the products in question should be deferred until damage inflicted by them on the interests of producers of tropical products in territories outside the scope of the Treaty had been reflected in trade figures showing that diversion of trade had actually taken place. The United Kingdom delegation held the view that the provisions of the Treaty would lead immediately to increased development in the territories benefiting by the provisions and to decreased development in the territories hurt by the provisions. It was urgent, therefore, to agree upon measures which would enable the producers of the tropical products in the latter territories to plan the development of their plantations in the knowledge that trade would not be diverted from its traditional channels. At the beginning of next year, moreover, the provisions of the Treaty regarding the reduction of duties in respect of imports from the associated overseas territories would start to take effect and, as stated on previous occasions, the Colonies for
which the United Kingdom delegation spoke demanded a speedy and satisfactory solution of their problems. That their fears about the effect of the provisions were justified was borne out by the Experts' Report which indicated that the preferential elimination of the duties would be predominantly trade diverting and not trade creating. As had been pointed out, the value of the understanding provisionally reached could only be judged when it could be seen whether in the consultations there was the will on the part of the Community to meet the problems of outside countries speedily. In any event that understanding did not affect the rights of the contracting parties under Article XXIV or the obligations of the Community in relation to that Article.

Apart from the association of the overseas territories, one of the most serious anxieties of the contracting parties outside the Common Market was the concern at the direction which the agricultural policy of the Community might take. The representative of the Commission of the Community had pointed out that the necessity to take into account trade relations with third countries was expressed very clearly at the Stresa Conference. It would go some way to allay anxiety, however, if the Community would agree to give contracting parties outside the Community an opportunity to discuss their agricultural plans before they were put into operation. Such a request seemed reasonable since, if the agricultural policy of the Community had been worked out at the time the Treaty was before the CONTRACTING PARTIES, full information would have been supplied at that stage by the Six. An important principle enshrined in Article XXIV of the GATT was that the purpose of a customs union should not be to raise barriers to the trade of other contracting parties. The CONTRACTING PARTIES, therefore, were entitled to expect that the Six, in combining their individual agricultural policies into a common policy, should not have a higher level of protection than before. This concept did not mean that the level of protection under the common agricultural policy should necessarily be as high as that which existed at present, but only that it should not be higher.

At the Twelfth Session, there had been much discussion about the consistency of the Treaty with the General Agreement as regards the imposition of quantitative restrictions on imports and as regards the level of the common tariff. While Mr. Jardine considered it unnecessary to discuss these questions in detail again at this stage, he pointed out that his delegation could not consider it right that a Member State which was not itself in balance-of-payments difficulties should impose import restrictions in the interests of one of its partners. Again as regards the tariff there was anxiety about the level of duties to be applied to products falling within List G annexed to the Treaty.

In conclusion he expressed the hope that the full co-operation between the Community and the rest of the world which both parties seemed anxious to foster would indeed be promoted. This would be possible, however, only if practical solutions were found for the important problems to which he had referred and, in more general terms, if the Community looked outwards instead of inwards. One test of this might be the attitude of the Community towards the problems raised in the Experts' Report.
Mr. RATTIGAN (Australia) recognized that in view of the scope and complexity of the Rome Treaty, it had not yet been possible to work out detailed plans on a number of its important aspects. He recalled that at the Twelfth Session, when the provisions of the Rome Treaty were examined in the light of the provisions of Article XXIV, it was quite clear that further information would be needed on all the four fields into which the work was then divided if the CONTRACTING PARTIES were to proceed to a finding under that Article. Consequently, no finding was made.

At the Intersessional meeting in April, discussion had centred on problems arising in connexion with the association of overseas territories and procedures were evolved for multilateral consultations under Article XXII. He was pleased to note that these consultations had finally commenced. Discussions so far, therefore, had clearly shown that prior notification of the intentions of the Six in relation to matters arising out of the Rome Treaty which affected other contracting parties was essential in both their own interests as well as those of other contracting parties. Questions of potential damage should be examined before actual damage occurred, otherwise a chain reaction would be started adversely affecting the trade of the Six as well as that of other contracting parties.

In the light of the examination of the Rome Treaty thus far concluded by the CONTRACTING PARTIES, Mr. Rattigan considered three points to be particularly relevant at present. All the information required to enable the CONTRACTING PARTIES to make a finding under Article XXIV was not yet available. Consultations which had commenced between the Community and contracting parties directly affected on specific commodities in connexion with the association of overseas territories had demonstrated a point which his delegation considered as essential for the solution of the difficult problems arising out of the Treaty, namely, arrangements for prior notification and prior consultation and, thirdly, representatives of the Community had expressed their willingness to co-operate fully with the CONTRACTING PARTIES in meeting the problems arising out of the implementation of the Treaty. The Australian delegation considered that these points provided a firm basis on which to proceed and accordingly submitted the following suggestions as to how the CONTRACTING PARTIES should develop action on these lines at this Session.

In the first place, the CONTRACTING PARTIES should not at present proceed to a finding as to whether or not the Rome Treaty was likely to lead to the formation of a customs union within the meaning of Article XXIV. Such a decision, however, should be without prejudice to the rights of the CONTRACTING PARTIES, at some future time, as might be necessary, to take action under Article XXIV. The decision should not, moreover, detract from other rights and obligations of individual contracting parties under the General Agreement. It would not, for example, affect the undertaking of the Six to submit their common tariff to the CONTRACTING PARTIES for examination when it was available, nor would it affect consideration by the CONTRACTING PARTIES, as might be necessary, of plans of the Six in respect of the use of quantitative restrictions.
Secondly, the CONTRACTING PARTIES should now adopt procedures designed to safeguard the interests of all contracting parties. The Six should inform the CONTRACTING PARTIES of measures concerning the formation of the customs union which might affect the interests of other contracting parties under the GATT and should afford other contracting parties an opportunity of consulting with them upon such measures before they were put into effect. In short, what was required was prior information and prior consultation. This suggestion was not novel or radical since the concept of prior information and prior consultation was well established and fundamental to the objectives of GATT; indeed it was the very essence of Article XXIV.

Thirdly, the Rome Treaty should be placed on the agenda of the next session of the CONTRACTING PARTIES since the matter was of fundamental importance to the future of GATT and to all contracting parties and there would be new and significant developments in the interim as the Community started to put into effect specific provisions of the Treaty.

In conclusion, Mr. Rattigan stated that if the suggestions found favour, the Australian delegation would be prepared to put forward a draft decision covering the three points he had made. The decision would be designed to safeguard the interests of all contracting parties, both those within the Community and those outside it.

Mr. HELL (Rhodesia and Nyasaland) referred to work that had been undertaken between the Twelfth and Thirteenth Sessions, both in the Intersessional Committee and in the Working Party, on the effects of the association of overseas territories with the European Common Market. Progress on those aspects was accelerated at the beginning of this Session when the members of the Community announced their readiness to consult with interested parties on the diversion of trade which was expected to come about as a result of the association. He recalled that this action of initiating consultations was based on a persuasive appeal from the Community itself that recourse be had to the provisions of Article XXII. In making that appeal the Community urged that the legal question of the degree to which the Common Market conformed to paragraphs 4, 5 and 6 of Article XXIV should be laid aside and that practical solutions be found for the problems of those contracting parties whose trade with the Six would suffer as a result of the creation of the Common Market and of the association of the overseas territories. The appeal by the Community for the use of Article XXII procedures was based also on the view that it was to the interest of all contracting parties at the present juncture to strengthen the General Agreement. His Government had accepted this invitation to use Article XXII as a procedure for securing practical remedies and his delegation appreciated the fact that consultations were now in progress.

When it was proposed that such consultations should be initiated, that proposal was made in the context of diversions of trade resulting from the inclusion of the export trade of the associated overseas territories of the Six in the Common Market. In that regard a special problem existed since the export trade of the associated territories to the Six was to become duty-free, but nevertheless the associated overseas territories were to retain tariffs which, for protective or other reasons, might be at different levels
from the common tariff of the new customs union itself. However, in the consultations which had already begun, his delegation had been grateful to note that the Six had not narrowly limited the field of discussion to that part of the trade damage which was expected to result from the association of their overseas territories, but had agreed that the scope should be wider and include considerations of damage which resulted from the fact that individual members of the Six would enjoy trade advantages flowing from the fact that trade exchanges within the Community itself would become duty-free.

The value of following the present line of action would stand to be tested in the light of their outcome when, on the conclusion of consultations, the results were reported to the CONTRACTING PARTIES. Consultations were proposed by the Community as a way out of the impasse represented by what they described as a juxtaposition of two different and irreconcilable viewpoints on legal issues. Some onus lay on the Community, therefore, to demonstrate that their own suggestion would have practical value and that it would not result again in the mere juxtaposition of opposing viewpoints, this time on practical matters relating to particular commodities as well as on the broader issues.

For the action now being taken to prove valuable, early and practical results were necessary in the form of positive mitigation of present or threatened damage. His Government was concerned with diversion of trade as a result of new tariff arrangements. It had been accepted by all contracting parties in past consultations that the effects of new tariffs could be assessed in advance. That was axiomatic and it would be unreasonable for the Community to maintain a view that actual trade losses must be awaited in order to demonstrate that the new tariff arrangements would result in a diversion of trade. The Six had declared their readiness to consult on the basis of concrete cases of damage only, and had enlarged upon that standpoint to indicate that damage to trade should be assessed after it had occurred. If the concept that damage flowing from new tariff arrangements should be so assessed were to be carried forward into the general tariff negotiations which the CONTRACTING PARTIES envisaged for 1960, would it be possible for those tariff negotiations to proceed? Would not the whole basis and principles of contracts on tariffs, which represented the kernel of the General Agreement, be completely destroyed? We would indeed have a position in which tariff negotiations would take the form of each country deciding to adjust its tariff as it wished and then refusing to consider concessions in any direction until the evidence of the effects had materialized, that is to say, a round of unilateral tariff adjustments in 1960 followed perhaps by tariff negotiations in 1961 or 1962. That would indeed be an absurdity, but no more absurd than the attitude that a European Common Market tariff had to be judged in the light of materialized effects and not in the light of the fact that new tariff arrangements were ipso facto concrete evidence of inevitable diversion of present or future trade where third parties were placed in a less favourable position than they formerly enjoyed. Once damage in that sense had materialized it might be beyond remedy because a new pattern and new channels of trade might have been created in the meantime.

Loss of trade could take the form either of a reduction in the volume or value of existing exports by countries affected, or it could take the form of a reduction in the share of an expanding market which exporting
countries could expect to enjoy. When the tariff concessions embodied in
the Schedules to the General Agreement were negotiated, they were undoubtedly
based on considerations of damage in the second form of expected changes in
the shares of expanding markets which different countries would enjoy, as
well as on the expectations of damage in the first form of changes in trade
calculated in absolute terms. Like considerations applied to the present
consultations. The basic principle was that certain producers now had
access to certain markets on certain terms. Where those terms of access had
been worsened there was a concrete case of damage which would stand
irrespective of expansion expected in the markets concerned, and also irrespec-
tive of whatever factors or policies might cause the market to expand.

During this Session his delegation had heard with considerable grati-
fication that industrialized countries were deeply concerned about, and
indeed have recognized a responsibility for maintaining, the trade earnings
of under-developed countries dependent on the export of primary products.
As was to be expected, such under-developed countries had been among the
first to accept the invitation of the Six to initiate negotiations under
Article XXII. Mitigation of the damage to the trade of such countries was
an obvious first step towards the practical implementation of the views
expressed. In that connexion the importance to such countries of maintain-
ing access on present terms to expanding markets should be readily appreci-
ated.

In conclusion, Mr. Bell stated that his delegation held strongly to
the view that, in addition to using GATT machinery and strengthening the
GATT, normal GATT principles should be applied in the conduct of consul-
tations and in the interpretation of damage to trade. At the suggestion of
the Community the CONTRACTING PARTIES were following such a line of action
and early results in a practical form were needed to establish what value
lay in this approach.

Mr. SCHWARZMANN (Canada) referred to the views which the Canadian
Minister for Trade and Commerce had expressed at the Ministerial discussions
on the Rome Treaty. While generally sympathetic towards the broad objectives
of the Treaty, his Government had serious concern that the Community might
develop into an inward-looking and protectionist regional arrangement in
Europe. The agreement reached in April was a welcome step. Seen against
the background of the serious fears and anxieties which had been expressed
regarding the association of the overseas territories, the consultation
procedure seemed a practical way to resolve problems which were expected to
arise in this field. Canada hoped that the consultations would proceed
expeditiously and lead to concrete results.

The CONTRACTING PARTIES had additional and special obligations under
Article XXIV to examine the policies and arrangements of the Six as and when
information became available with a view to making recommendations if
necessary. His delegation fully agreed with the views expressed by the
Australian representative that prior notification was basic and fundamental
to the effective operation of Article XXIV. He pointed out that some
aspects of the Treaty did not lend themselves to the consultation procedure.
This was the case with the common tariff, the level of which the CONTRACTING
PARTIES would have to appraise as and when it became available. In this
connexion the Member States were strongly urged to demonstrate their interest in expanding world trade by establishing low tariffs, particularly on basic raw materials and industrial products. The application of quantitative restrictions was another field in which consultations would bring no solution. His Government adhered to its opinion that the institution of the Community did not justify any deferment in the removal of existing restrictions. Any delay would result in an intensification of discrimination contrary to the concept and objectives of the Agreement. In agriculture, however, there might be some room for devising procedures to establish closer co-operation between contracting parties. The agricultural provisions of the Treaty raised questions both with respect to their compatibility with the Agreement and as regards their possible effects on world trade. It would be useful if at the present Session procedures could be devised to establish closer liaison in this field. There were perhaps other fields in which contracting parties might feel the need to provide for co-operation and his delegation would certainly wish to examine closely and sympathetically the Australian proposal for further progress in this direction. In concluding, Mr. Schwarzmann said that his Government would continue to approach issues relating to the EEC in the same spirit of goodwill and with real consciousness of the important benefits which could accrue to world trade as a whole from a Community which developed in accordance with the principles and objectives of the Agreement and in co-operation with other contracting parties.

Mr. SWAMINATHAN (India) agreed with the representative of the United States that, considering the organizational problems involved in the establishment of the Community and its institutions, noteworthy progress has been achieved. He reiterated the anxieties and apprehensions which had been voiced on previous occasions and which had been expressed again during the present debate by several representatives. His delegation was gratified that the consultations agreed upon earlier in the year had been initiated. It had noted at the consultation meetings in which India had participated that the procedure had at least begun auspiciously. While it was too early to say what measure of success would be achieved, so far a cordial atmosphere had prevailed in the consultations. He hoped that this atmosphere would be maintained and would permit the consulting parties better to appreciate their mutual difficulties. He agreed with the view that there should be no tendency to wait until actual damage had been done to the interests of any contracting party. Some tariff levels had already been determined and there were indications of other actions under the Treaty which did lead to legitimate apprehensions of damage to the interests of third countries. Like other contracting parties, his delegation therefore demanded that account should be taken not only of actual damage once it had been caused, but that potential damage should also be recognized. This was essential in view of the development plans of several contracting parties which were dependent on what was likely to happen to their interests in the trade of their important export commodities. His delegation fully agreed with the representative of Australia that prior information and consultation were essential. While approving the conclusions of the Intersessional Committee, Mr. Swaminathan suggested that the time-limit of thirty days in paragraph (b) of the procedures be extended to forty-five days.
Mr. BARBOSA DA SILVA (Brazil), while approving the conclusions reached by the Intersessional Committee, shared the views which other speakers had expressed on the Treaty. The advantages which might result from the integration of the economies of the Member States had been fully recognized by many contracting parties, many of which had also expressed sympathy with the efforts of those engaged in this complex and challenging task. At the Intersessional Committee his delegation had agreed to leave aside for the time being questions of compatibility of the Treaty with the provisions of the Agreement and to direct attention instead to specific and practical ways to accommodate the interests of contracting parties which found that they were affected by some of the provisions of the Treaty. The Brazilian Government had requested to participate in certain consultations and hoped that this procedure would help to arrive at a better understanding of the reciprocal positions. His delegation, however, could not accept the opinion that discussions must be confined to the consequences of the association of the overseas territories. It was quite reasonable to expect damage. Indeed if credit had to be given to the ingenuity and intelligence of the drafters of the Treaty, the creation of the preferential area could have no other purpose than to stimulate production in the overseas territories. At a time when the existence of over-supply in several commodity markets was generally acknowledged and when measures were contemplated to bring supply better in line with demand, incentives to increased production by setting up sheltered markets undeniably justified apprehensions and concern and could not contribute to the problems confronting underdeveloped countries. Bearing in mind the understanding which the Six had shown with the problems of primary producers, the Brazilian delegation hoped that the consultations would lead to satisfactory results and that after the report had been submitted to the CONTRACTING PARTIES it would be possible to devise means to accommodate the interests of countries affected.

Mr. CASTLE (New Zealand) stated that the examination of the Treaty of Rome thus far conducted by the CONTRACTING PARTIES, although inconclusive, had pointed to the fact that there was inadequate information on which to base a decision as to its compatibility with the provisions of Article XXIV. This inadequacy of information stemmed mainly from the fact that on several important issues, especially agriculture, the Six as yet had not formulated their common policy. In these circumstances, the CONTRACTING PARTIES were not in a position to arrive at any definite conclusions. However, within the next few months some of the first steps were to be taken towards bringing the customs union into effective operation, and contracting parties whose trade would be affected by these initial steps were naturally concerned. Moreover, other countries continued to be apprehensive over the policies likely to be adopted by the Community on products for which as yet there was no definite programme of action. All were concerned over the possibility of diversion of trade that could result from the policies of the Six. In this connexion it was clear that Article XXIV was intended to ensure that increased trade between the members of a Customs Union did not occur as a result of a diversion of trade from other non-member contracting parties. In view of the fact that there was insufficient
information regarding the future intentions of the Community to ensure that this condition would be fulfilled, and bearing in mind the general view that attention should be directed to practical problems, Mr. Castle considered that the development of effective procedures for consultation in accordance with normal GATT practices was entirely appropriate. This would enable the Six to remove any misapprehensions about their policies arising because of inadequate comprehension of their intentions and also permit other contracting parties to place before the Six the problems posed for them by the implementation of the Treaty of Rome. As recorded in the report of the Intersessional Committee such procedures for consultation had been developed and his delegation was pleased to note that these had been put into effect on the question of the association of overseas territories.

The New Zealand delegation also welcomed the assurance of the Six that they would keep the CONTRACTING PARTIES informed of action they took, especially on agriculture; this was exemplified by the information supplied on the Stresa Conference. While Mr. Castle fully appreciated the difficulties of the Six in the complex arrangements they still had to make, he expressed concern that final decisions might be reached by the Six, especially in the application of the agricultural provisions of the Treaty, without being fully aware of, or taking into account, the implications such decisions might have for other contracting parties. Accordingly his delegation supported the United Kingdom suggestion that opportunities be given to contracting parties to discuss with the Six their decisions on agricultural policy before they were put into effect. He agreed with the views expressed on the need to avoid trade damage occurring rather than to consider damage after it had taken place; and as stated by the Australian representative this called for prior notification and prior consultation. The soundness of the decision to put aside legal issues could only be judged in the light of whether the consultation procedures produced practical results. This necessitated a ready flow of information from the Six and prompt and reasonable comment by other contracting parties. With goodwill on either side it should be possible to establish a mutual understanding of each other's position and finally reach solutions to particular problems acceptable to all concerned.

Dr. VARGAS GOMEZ (Cuba) stated that his delegation was prepared to accept the procedures of consultation for specific products. However, he expressed their anxiety concerning the future development of the Community's policy in the field of agriculture and quantitative protection. Cuba was prepared to join in consultations on sugar and tobacco. He understood that the period of thirty days, required for requests to be joined in the consultations, was to start from this meeting.

Mr. GARCIA-OLDINI (Chile) emphasized that any measures taken with respect to particular products should not be prejudicial to the ultimate decision which would be taken by the CONTRACTING PARTIES as to the legal
question of whether the Treaty of Rome was consistent with the provisions of the GATT. Mr. Oldini reminded the CONTRACTING PARTIES that it was essential not to lose the main problem from view, viz. whether the Treaty favoured expansion of trade rather than discrimination. He recalled that in the general debate at the beginning of the Session he had quoted from the Experts' Report which stated that if this condition did not obtain, the Treaty of Rome would result in a struggle between different economic groups. He hoped that this would not be the case, but wished to stress that the basic question had not yet been resolved.

The deliberations of the Working Party on this subject had been extremely long and it would be advantageous to all if the results were made more widely known. In drawing attention to the importance of consultations with the European Economic Community, Mr. Oldini wished to stress the point that the determination of substantial interests in these consultations should be considered in the light of the relevant impact any diversion of trade in the product concerned could have on the economy of a particular country. The word "substantial" interest was to be interpreted with regard to the importance of the product in relation to the economy of the exporting country. Mr. Oldini hoped that there would be a satisfactory solution to the discussion with the EEC although he proposed that the CONTRACTING PARTIES should explore the feasibility of other means of approaching the question which might be within the possibilities of GATT.

Mr. THEBAUD (Haiti) supported the declaration made by the representative of the Federation of Rhodesia and Nyasaland concerning the European Economic Community's decision to postpone consideration of possible damage to the trade of third countries until after it had been caused. The Haitian delegation wished to be kept better informed about the progress of the present consultations since his country was particularly interested in the problem. By letter of 25 October 1958 addressed to both the Council and the Commission of the European Economic Community, his delegation had expressed a desire to take part in the discussions and consultations concerning coffee. Whilst limiting the request to one product only the delegation reserved the right to request future consultations about other products in which Haiti had a substantial interest. A copy of this correspondence had been sent to the secretariat and according to the statistical data attached it could be seen that in 1956-57 five of the six countries of the European Economic Community had absorbed 79.32 per cent of the value of Haiti's exports of coffee. He wished to inform the CONTRACTING PARTIES that no reply to this correspondence had yet been received.

Mr. BAIG (Pakistan) approved the Intersessional Committee's report with the minor amendments which had been suggested. As regards the suggestions for further action he was in sympathy with what had been said by the representative of Australia and supported by other delegations. His Government continued to entertain apprehensions concerning some of the issues involved. The association of the overseas territories to the Community could have adverse repercussions on the trade of many underdeveloped countries, including Pakistan, for it could divert the trade away from traditional sources of supply. In view of the statements which his delegation had previously made concerning the agricultural and other provisions of the Treaty, he would merely express the hope that the result of the consultations under Article XXII would allay some of the apprehensions which had been voiced.
Mr. HAMMOND (Ghana) pointed out that Ghana was almost exclusively reliant on the export of primary commodities for the necessary foreign exchange required to finance essential imports and economic development programmes; of significant importance was cocoa, sales of which accounted for almost 70 per cent of the value of Ghana's export earnings. Any factors influencing the world cocoa market would, therefore, have vital repercussions on Ghana's economy. Accordingly, his government was deeply concerned at the possible threat to the level of world cocoa prices which could result from the artificial stimulus afforded to cocoa producers in the Associated Overseas Territories through the creation on their behalf of a new preferential market in the Six at a tariff margin of 9 per cent. Past experience had shown that world price levels for cocoa reacted very sensitively to additions in production and, following exceptionally large crops in 1956-57 had fallen considerably by 1957 only to rise again more recently as a result of diminished output. It seemed, therefore, that an additional production of cocoa amounting to 50,000 tons per annum such as was expected to result in the associated territories as a consequence of the stimulation afforded through the tariff preference granted by the Six, would have a depressing influence on world prices to the disadvantage of other producers. In conclusion Mr. Hammond stressed the importance of the market of the Six for exports of cocoa from Ghana and expressed the hope that in the course of scheduled consultations with the Community on this commodity equitable solutions would be found acceptable to all parties concerned.

Mr. ELEKDAGDAN (Turkey) shared the views which the representatives of Australia and the Federation of Rhodesia and Nyasaland had expressed on the criteria of damage which must be considered in the consultations. In the opinion of his delegation potential and imminent damage must also be taken into account. It would be too late to resort to remedies once the damage had materialized.

Mr. BEINOGLOU (Greece) shared the views which the representative of Rhodesia and Nyasaland had expressed on certain effects which the Treaty would have on the trade in primary products of a number of countries with the Member States. Greece attached great importance to the export of tobacco and to the agricultural policies of the EEC and hoped that the problems which might arise in the field of agriculture could be settled. His delegation approved the report of the Intersessional Committee as amended.

Mr. PHILIP (France), speaking on behalf of the Member States of the EEC, recalled the unsuccessful confrontation of views which had taken place during the previous year. The CONTRACTING PARTIES had since agreed to bring to an end the legal controversies and to suspend their sterile efforts of mutual persuasion. Questions of law had been set aside for the time being and it had been decided to initiate consultations under Article XXII. However, during the debate he had the impression that some
representatives felt some nostalgia for the resounding discussions of the previous year and were trying surreptitiously to revive controversies on legal points. If it were necessary, such discussions could be resumed. The Six, however, held the opinion that this would not be in the general interest of the CONTRACTING PARTIES and considered accordingly that some of the points which had been made during the debate should be set aside.

Some representatives had referred to one or another passage of the Experts' Report to establish that their apprehensions were well founded. As a part of the action the CONTRACTING PARTIES intended to take with a view to expanding world trade, the Six were prepared to discuss all the views expressed in the Report, i.e. without picking and choosing according to interest and advantage, and without, for example, rejecting the Experts' conclusions on multi-commodity arrangements, while at the same time accepting their mild criticism of the E.C. Mr. Philip said that he had listened with surprise to a kind of new economic theory according to which countries would have some sort of established right to a certain percentage of their partners' import trade for each of their export commodities. If such economic theory were applied, it would inevitably lead to a crystallization of international trade in a determined pattern. The Six, for their part, were convinced that the institution of the Community would be an important influence for rapid economic expansion which would, however, demand painful sacrifices of the Member States. Third countries which were not sharing in these sacrifices could be promised that there would be no reduction, in absolute terms, of their trade with the Community and that, in so far as possible, the Six would attempt to let them share in the expansion.

Mr. Philip had been most surprised to note that certain representatives were reviving the suggestion that the Six should consult on their agricultural policies and on their policies concerning the overseas territories, even before these policies had been framed or at any rate before they had been implemented. If the CONTRACTING PARTIES were to agree to insert provisions in the Agreement to the effect of requiring prior discussion before contracting parties had taken decisions and had applied them, the Six would have no objections provided such provisions applied without discrimination to all contracting parties.

The Six had agreed to submit to the normal consultation procedures as provided in Article X.XII and had already initiated consultations. This procedure left aside the theoretical issues and envisaged, within the framework of Article X.XII, a number of concrete cases. Under the consultation procedure an opportunity was afforded to examine step-by-step, as and when measures were taken by the Community, the extent to which these measures might create damage for other contracting parties, either actual or within the near future and predictable in a precise way. The Six were prepared to consult on problems arising from the application of the Treaty but not on the Community's supposed or real intentions.
Mr. Philip believed that it would not be advisable to introduce at this stage new proposals which, by modifying the procedures and the basis of co-operation agreed upon, might hamper or bring to an end the consultations at present under way. It was gratifying to note that a large number of contracting parties had recognized that, in the consultations and within the framework which had been defined, the Member States were co-operating fully and were interpreting the terms of the consultation procedure broadly. They were supplying information freely - even if not under any commitment to do so - because they believed that it was in the interest of all contracting parties to give the most information possible. In his view, the CONTRACTING PARTIES should approve the conclusions reached by the Intersessional Committee, including the amendments suggested by the Executive Secretary and by the representative of India, and should agree that the groups which were at present conducting consultations under Article XXII should submit reports. These reports, and generally the problems relating to the Community, should be taken up at the following Session. Such a course would help to maintain the present atmosphere of goodwill and would contribute to overcoming gradually the difficulties which had been met.

The CHAIRMAN, summarizing the debate that had taken place, pointed to the fact that there had been general reaffirmation of the conclusions reached by the Intersessional Committee that it would be more fruitful to leave aside for the time being questions of law and debate about the compatibility of the Rome Treaty with Article XXIV of the General Agreement and, through the normal procedures of Article XXII, to direct attention to specific and practical problems affecting international trade which arose from the establishment of the European Economic Community. For this purpose the Intersessional Committee had elaborated consultative procedures for Article XXII and during the debate their recommendations, together with proposed amendments by the secretariat designed to facilitate their practical application, had been generally upheld. The representative of India, however, had suggested that it would be more convenient for distantly located contracting parties if the time-limit for the contracting party advising its desire to be joined in a consultation be extended to forty-five days rather than the thirty days proposed by the secretariat.

The CONTRACTING PARTIES thereupon approved the Intersessional Committee's recommendations on procedures for consultations under Article XXII, as set out in Section I(a) of the Intersessional Committee's report to the CONTRACTING PARTIES (I/886) with paragraph (b) thereof, as amended by the
above proposal by the representative of India. In doing so, however, it was recognized that the time-limit of forty-five days for notifications of requests to be joined in any consultations would, for the consultations already initiated, run from the date of approval of the procedures.

The CHAIRMAN then referred to the point made by many delegations that the implementation of the consultation procedures under Article XXII should not necessarily be postponed until there had been actual damage, or even until action which might result in damage had been taken. The representative of France, as spokesman of the six Member States, had pointed out that consultations should not be initiated on purely hypothetical grounds and that whatever procedures were adopted they should be generally applicable to all contracting parties and not specifically confined to the six Member States. In this connexion, the Chairman referred to the provisions of both Article XXII and the procedures the CONTRACTING PARTIES had just adopted for the implementation thereof. No reference was made in either case to "damage" as such, and the text of Article XXII merely provided that sympathetic consideration and adequate opportunity for consultations be accorded to such "representations" as might be made by any contracting party with respect to any matter affecting the operation of the General Agreement. The concept of a "representation" did neither prejudice the basis for a consultation nor convey the implication that any damage must necessarily be established. The representative of France, as spokesman for the six Member States, had rightly observed that, for consultations under the procedure just approved to be fruitful, problems of a practical and concrete nature and not vague apprehensions should be discussed. This did not preclude any contracting party wishing to put forward views on the effects on its trade of any possible action, making representations in order that the six Member States in formulating their commercial policy could have due regard to what might be the subject of future consultations. The view had been expressed that contracting parties should be kept informed of developments in the commercial policy of the Community as it was formulated. This desire seemed legitimate if effective use were to be made of the procedures for the implementation of the provisions of Article XXII.

Many delegations had recapitulated arguments they had advanced at the Twelfth Session and related Working Parties concerning the possible protective effects of the integrated agricultural policy to be devised as opposed to what hitherto existed for the six Member States individually; the possible discriminatory use of quantitative restrictions by partner States to assist a member in balance-of-payments difficulties and the effects on the trade of certain under-developed countries of the association of the overseas territories to the EEC. These were not issues which needed further consideration at this stage in view of the general desire not to raise legal issues at this juncture.
The Chairman considered, therefore, that the CONTRACTING PARTIES should reaffirm the conclusions of the Intersessional Committee not to pursue for the present legal questions of the compatibility of the Rome Treaty with Article XXIV of the General Agreement, but to defer judgment thereon and to make use of the consultation procedures on which they had just agreed to deal with specific and practical problems. Apart from formal consultations, every contracting party would have the right, under the terms of Article XXII itself, to make representations to the Community to ensure consideration of their problems.

Mr. RATTIGAN (Australia) considered that it would be more appropriate if a document were drawn up which formalized the position of the CONTRACTING PARTIES on these issues.

The CHAIRMAN pointed out that in any case this matter would be on the Agenda of the CONTRACTING PARTIES at the next Session. If, however, it was desired to have a document of the nature suggested by the representative of Australia, he proposed that the Drafting Group that had been established to examine the terms of reference for the Committee on the Expansion of Trade could be charged with the responsibility of preparing a draft reflecting conclusions to be drawn from the debate for submission to the CONTRACTING PARTIES.

It was so agreed.
2. European Free-Trade Area Proposals

The CHAIRMAN recalled that at the Twelfth Session the CONTRACTING PARTIES had noted the proposals under consideration in the Organisation for Economic Cooperation, which envisaged the formation of a free-trade area embracing the six Member States of the European Economic Community and the other members of the OEEC. In order that the CONTRACTING PARTIES should be kept informed of developments in the negotiations for such a free-trade area, the Intersessional Committee had been instructed to maintain contact with the negotiations and to report at the Thirteenth Session. These negotiations were still in progress and the Chairman therefore suggested that the matter should again be referred to the Intersessional Committee with instructions to follow developments. It would be understood, as at the Twelfth Session, that any formal instrument which might be drawn up would be made available to the CONTRACTING PARTIES immediately after its signature.

It was so agreed.

3. Waiver granted to New Zealand in connexion with the Renegotiation of Schedule XIII (W.13/31)

The CHAIRMAN recalled that at an earlier meeting it had been agreed to extend the time-limit for New Zealand to complete the renegotiations under Article XXVIII authorized by the CONTRACTING PARTIES at the Twelfth Session. A draft Decision (W.13/31) had been prepared, the text of which was acceptable to the New Zealand delegation.

The CHAIRMAN then submitted the draft Decision to a vote. The CONTRACTING PARTIES approved the Decision by a vote of thirty-seven in favour with no abstentions.

4. French Stamp Tax

The CHAIRMAN recalled that this item had appeared on the Agenda for several years. At an earlier session the delegate of the United States had stated that in the opinion of his Government the increase in the stamp tax from 2 to 3 per cent of the customs receipts from import and export duties and taxes constituted a violation of the provisions of Article II and also was contrary to Article VIII in that the proceeds of the tax exceeded the cost of the services rendered. At the Twelfth Session the French Government had announced its intention to reduce the rate of the tax and had undertaken to inform the CONTRACTING PARTIES when the measures came into force.

The Chairman invited the representative of France to report on action taken since the Twelfth Session.

Mr. PHILLIP (France) stated that it was correct that his Government had increased the stamp duty from 2 to 3 per cent mainly to finance agricultural family allowances and that at the time he had recognized that this was contrary to the rules of GATT. Although at two consecutive sessions he had announced that the French Government had taken steps to reduce the tax to 2 per cent, each time the Finance Committee of the National Assembly had deleted the
relevant clause from the Finance Bill. He had hoped to be able this time to announce that this reduction had been made since, due to the election, no Finance Committee existed and the Government was directly responsible for drawing up the budget. But the budget would probably not be ready until the end of December since the shares to be allocated to the various ministries were still being settled and the final decision by the Ministry of Finance would only be taken during December. He felt that there was every reason to believe that this time the reduction in the stamp tax would be included in the budget.

Mr. SOLBERG (Norway) said the Norwegian delegation realized that the French Government desired to conform to Articles II and VIII of the General Agreement and was attempting to pass legislation to this effect. Therefore, the Norwegian delegation proposed that this question be placed on the Agenda of the Fourteenth Session.

Mr. PAPPANO (United States) expressed the regret of his Government that the French Government had not yet been able to rescind the increase in the stamp tax which was not consistent with the rules of the GATT. He shared the hope of the French delegation that this would be possible in the new budget and that the tax would be completely eliminated at an early date.

Mr. SPREUTELS (Belgium) supported the points of view expressed by the Norwegian and United States delegates.

The CHAIRMAN thanked the French delegate for his statement and said he hoped that the question would be resolved before the Fourteenth Session.

The meeting adjourned at 5 p.m.