SUMMARY RECORD OF THE TWENTY-FIFTH MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 December 1954, at 10.30 a.m.

Chairman: H.E. Mr. L. Dana WILGRESS (Canada)

Subjects discussed: Review of the Agreement:

(a) Progress Report of the Chairman of Review Working
Party II on Tariffs, Schedules and Customs Administration

(b) Progress Report of Working Party I on Quantitative
Restrictions


Mr. SEIDENFAEDEN (Denmark), Chairman of Working Party II, read his
Progress Report.

The CHAIRMAN thought this report clearly indicated the divergence of views
expressed in the Working Party and showed that little progress had been made in
reconciling these views. Some encouraging developments were to be noted,
however, including the Netherlands initiative to find a common basis for tariff
reductions, certain progress in the question of most-favoured-nation treatment,
preferences, etc. He hoped that over the Christmas recess the delegations
would consider the various proposals in the light of the reactions which had
appeared in the meetings and that, particularly in the case of proposals which
had received no general support, would not pursue them after the recess.

Mr. MACHADO (Brazil) thought it might be helpful to circulate an addendum
to the Progress Report, listing the document references for the various proposals
noted in it. Some of the proposals, including a Brazilian proposal to which
reference was made on page 3 had not yet been considered by the Working Party
or sub-group.

Mr. HAGEMANN (Germany) referred to page 5 of the Progress Report, paragraph 2,
where the recommendation of the German Government should not be described as
tending toward an "equalization" of tariff incidences, but rather that its
purpose was a certain rapprochement of tariffs. Customs duties necessarily had to compensate to some degree different economic, production and price conditions and therefore could not be equal in all countries.

Mr. PORTOCARRERO LACAYO (Nicaragua) referred to the statement of his delegation at the Working Party on 25 November requesting authorization to renegotiate its bound schedule as soon as possible. Nicaragua was preparing a new tariff using the Central American nomenclature. When his country undertook negotiations at Annecy it had expected to adjust its tariff within a few years, an adjustment which had been made impossible by the subsequent rebindings of the schedules. The present tariff dated from 1918 and in view of his Government's plans for economic development, and the extension of the free-trade area with El Salvador, obviously required a complete revision. His Government had been anxious to undertake this revision before June 1955. However, the Nicaraguan Government had reviewed the situation, and Mr. Portocarrero stated that he now had instructions to inform the CONTRACTING PARTIES that they would request no changes or modifications before 30 June 1955. At that time they would wish to renegotiate the entire schedule so as to be in a position to impose their new tariff in July.

Baron BENTINCK (The Netherlands) thought that the Progress Report gave an impression of a perhaps too definite proposal on the part of his delegation. The Benelux Governments had thus far expressed no intention to withdraw any of their previous proposals concerning tariff reductions. The suggestions of the Netherlands to which the report referred had been made because of the importance his Government attached to the subject and as evidence of their willingness to do their utmost to find a solution. He would reserve the position of his delegation to consider this matter after the recess and possibly submit a new draft.

Dr. NAUDE (South Africa) referred to the last paragraph of page 4 and the first paragraph of page 5 referring to Article XXVIII. The South African position was that tariffs and not quantitative restrictions should be used for protective purposes. This was, moreover, a fundamental principle of the Agreement. His Government had negotiated its schedule on the basis of Article XXVIII in its present form, i.e., on the understanding that periodic renegotiations were provided for without the necessity of pleading exceptional circumstances. The latter concept formed the basis of the sympathetic consideration procedures.

Dr. Naudé stated that his Government intended to use their right under the Agreement to renegotiate in order to provide protection to certain deserving industries. This was not a case, moreover, in which exceptional circumstances could be adduced. There would be a disadvantage, in his view, in making the procedures for renegotiations too rigid. It would only lead to the imposition by countries of other measures of protection and upset still further an already disturbed balance.
Dr. VARGAS GOMEZ (Cuba) referred to page 7, the first paragraph of Section A regarding new or increased preferences. The Cuban Government sympathized with the problems raised by the delegations of Australia, Chile and others regarding their difficulties with Article I. They were anxious to find a satisfactory solution to meet these difficulties and when the proposals were considered by the Working Party, the Cuban delegation had adopted a conciliatory attitude. However, his delegation was uneasy at this solution proposed by the sub-group, to the effect that these questions should be dealt with by the submission of requests under Article XXV:5(a) for waivers of obligations, rather than by amendment of the Agreement. He was doubtful about the legal interpretation on which this solution was based, as set out in the report of the sub-group (W.9/114, paragraph 2) that "there are no limitations to the obligations to which a waiver under that paragraph can apply. Therefore, the paragraph is general in its application and a waiver can relate to any of the provisions of the Agreement". His delegation could not accept this interpretation. A waiver of obligations undertaken under Part I of the Agreement implied a modification of Part I and could not be approved by a two-thirds majority of the CONTRACTING PARTIES. To permit this would simply be a means of circumventing Article XXX of the Agreement. Article I, paragraph 2 limited the preferential systems permitted within the framework of the Agreement. If by a waiver of its obligations, Chile, for instance, were permitted to establish a new preferential system, this would be a clear modification of Article I.

Dr. Vargas Gomez said he would have to reserve the position of his Government on this question pending further instructions.

Mr. OSMAN ALI (Pakistan) referred to page 5, paragraph 3 of the report and the proposals regarding an obligation to negotiate. Although Pakistan appreciated the problem of low tariff countries, it also had its own problems in this domain. The tariff in Pakistan was the main source of revenue and it would be difficult for his Government to accept any such proposal, even if it were so worded as to make the obligation recommendatory rather than mandatory.

Mr. JHA (India) remarked that it would be difficult by the end of the Review to agree on writing into the Agreement a particular plan for tariff negotiations. Moreover, it was inappropriate to provide for a particular plan or technique of negotiation in the Agreement itself, as these were matters that should be considered in the light of circumstances existing at a particular time. There seemed to be little advantage to be gained, furthermore, by inserting an obligation to negotiate since there was no way to oblige a country to reach results. It would surely be more effective, to provide, as a function of the Organization, that it should call upon contracting parties from time to time to negotiate.

With regard to the references in the Progress Report to modification of schedules, he thought that the divergent views were due to the fact that, over the course of time, the balance of advantages accruing from the bindings had changed to the disadvantage of some countries, for example, countries with specific duties. For India there was the special problem that the negotiations had taken place before partition, and the political changes
over the past years had brought a transformation in its economy, even to the extent that certain items which used to be exports were now being imported into the country. The opportunity for rectifying such situations was afforded by the possibility to renegotiate the whole schedule from time to time under Article XXVIII. The limited period presently provided for the validity of the schedules and the opportunity to renegotiate were important factors in ensuring that redress would be possible when the balance of advantage had materially changed. Mr. Jha recognized the need for stability of tariffs and perhaps binding the schedules for a longer period would meet this. However, the time to do this was at the next general round of tariff negotiations. This was not a question which should be settled here and now.

Mr. Jha referred to the question of unilateral withdrawal. Once the principle of periodic binding of the schedules was accepted, it was a logical corollary that at the end of each period countries had certain rights, among which was the right of unilateral withdrawal of concessions. This right did not mean that countries could act with impunity and that fact had obviously acted as a major check since the right had hardly been used in the past. Mr. Jha referred to the suggestion that countries which had acceded at Annecy or Torquay should have the right to participate in renegotiations since they had been required to take into account the concessions provided for in the existing schedules. Certainly, the position of substantially interested parties should be taken account of when concessions were being withdrawn, but it did not follow that all contracting parties had an equally strong claim to make counter-withdrawals. Obviously countries with a diverse export trade were interested in almost all products and would benefit from any concession. The CONTRACTING PARTIES in determining substantial interest must surely look at the trade of all contracting parties. Safeguards for the substantially interested parties were provided in the phraseology of Article XIX and there was no need for a country suffering impairment to have recourse to Article XXIII. It might happen that many other contracting parties would suffer from a counter-withdrawal. The procedure for counter-withdrawal should be available to the initially negotiating country, but parties with a substantial interest should not have the right to withdraw compensatory concessions and thus affect the interests of other countries.

Further, he agreed with the view that if agreement were not reached on compensation, the matter should come before the CONTRACTING PARTIES, and the CONTRACTING PARTIES should always guard against the danger that one country's need might become another country's opportunity.

Mr. PHILIP (France), referring to the last paragraph of page 7 concerning Article XXIV, recalled the statement by the French Minister to the effect that it was the intention of his Government to reform the various customs systems throughout the French Union in order to create a common customs community. He had reserved the position of his Government to submit amendments to Article XXIV. After a study of this question his Government had decided that the community envisaged would, in fact, form a customs union as provided under Article XXIV and thus it would not be necessary to propose amendments to that Article. He wished the fact that the proposed arrangement would, in the view of his Government, raise no problems requiring an amendment of the Agreement to be recorded for
reference at the time that the French Government became able to notify to the CONTRACTING PARTIES a plan for a common tariff and a plan for the carrying out of the customs union.

Mr. MACHADO (Brazil) referred to Section 4 of the report concerning most-favoured-nation treatment and preferences. He raised again the question of the amendment procedure and referred to his statement of the previous day concerning Article XXX. The interpretation that the review of the Agreement provided only for amendments under the existing procedures, a possibility which had always been open to the CONTRACTING PARTIES, seemed to him not consonant with the calling of a special Review Session. The Brazilian proposal having been denied on the basis that unanimity was required to amend Part I and with no further explanation, he wished to make it clear that his delegation would deny its vote to any proposal to enlarge the existing system of preferences. Article I in his view perpetuated a situation which was explainable only in historical terms.

Mr. GARCIA DE NI (Chile) referred to the declaration made by his delegation in the Working Party concerning provision for the establishment of preferences for under-developed countries in order to assist the process of development along the lines of Article 15 of the Charter. For the reasons he had already indicated he would not reserve the position of his delegation on the progress report, but he maintained the right to renew this proposal.

Baron BENTINCK (The Netherlands), referring to Section V of the report, recalled a proposal concerning supra-national institutions, contained in the Netherlands Minister's statement at the opening of the Review, which had not yet been discussed in any group and which they might wish to revert to after the recess.

The CONTRACTING PARTIES took note of the report of Working Party II.

2. Progress Report by the Chairman of Working Party I (W.9/126)

Mr. SUETENS (Belgium) read his progress report of the Working Party. He referred to the report of Sub-Group A (W.9/101) which defined the points of difference regarding balance-of-payments restrictions referred to in paragraph 3 of the progress report. In conclusion, he could say that the Working Party had made progress on some questions, namely consultations under Article XII, on which the discussion now turned on the question of technique, and on Article XVIII. The problems of discrimination and of the relationship to regional agreements were deferred until after Christmas, as was also the question of the interpretation of Article XXIII in the light of the new Article XVIII, and of quantitative restrictions for protective purposes. Mr. Suetens said that he expected to be able to submit to contracting parties a new draft of Articles XII to XV which might be used as a basis for the discussion of the Working Party. This draft would commit no one, including his own delegation.

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1 This draft has since been distributed as document W.9/130
The CHAIRMAN thought that this Working Party had made as much progress as could be expected given the complexity of the problems entrusted to it.

Mr. MONSERRAT (Cuba) thought that the time was opportune to offer some general comments on two significant trends of thought that had been present in the discussions and which, in the view of his delegation, were of a most distressing nature.

It had often been said that GATT offered few attractions for underdeveloped countries, while placing many obligations upon them. Perhaps the most eloquent confirmation of this fact was the absence from GATT of the majority of the under-developed countries and the inclusion of nearly all the industrial countries of the democratic world.

This was especially true in the case of under-developed countries which exported agricultural products. On the one hand there were the well-known exceptions that discriminated against agricultural products in the provisions dealing with the prohibition to impose quantitative restrictions. Any country could impose unilaterally a definite limit on the importation of any agricultural product - even if the rate of duty were bound under the otherwise sacrosanct Article II - if this were necessary in order to implement certain programmes for the protection of their domestic agriculture. This unilateral right to impair the benefits of agricultural exporters was defended on economic, social, political and strategic grounds. Thus, most of the under-developed countries whose main exports were agricultural, were denied the essential safeguards not only for the necessary expansion of their exports, but even for the maintenance of the present level of these exports. If technological improvements in the under-developed country resulted in higher productivity and, consequently, in a better competitive position for its exports, there was a likelihood that its efforts would come up against a quantitative barrier imposed for social, strategic and other reasons, by an industrialized country. But this was only one side of the picture. When the under-developed country in its turn felt the "pinch" of foreign competition in its domestic industries - in this case called a "healthy" exposure to foreign competition - then, all kinds of complicated procedures were required for the imposition of quantitative restrictions, and abundant safeguards were given to the exporting country against the impairment of any direct or indirect benefits. Thus the growth of the under-developed country through its exports could easily be limited by unilateral and uneconomic action taken by industrialized nations; but when the time came to protect the level of domestic production and the internal growth of the under-developed countries, the utmost care must be taken to see that productivity considerations and reciprocal rights were adequately taken into account.

Such a situation had its explanation, but not the kind of explanation his delegation wished to see in relation to GATT affairs; and it was unfortunate that the two trends of thought developing referred precisely to an accentuation of this unsatisfactory situation.
Working Party I had a number of proposals presented by several industrial countries with the purpose of enlarging the scope of the exceptions for agricultural products under Article XI. These governments insisted that in some way the Agreement should provide a satisfactory solution to their agricultural problems. Quantitative restrictions to protect their agriculture were needed for economic, social, strategic and other reasons and quantitative restrictions were the only instrument, according to them, suitable for coping with their problems. In Working Party III some of the most important industrial countries put forward proposals relating to the regulation of subsidies, which established a clear differentiation against the interests of agricultural exporting countries. Subsidies for industrial products should be abolished because they were uneconomical and disrupted the normal pattern of trade, but subsidies for agricultural products might even be humanitarian in many instances, and therefore should be considered in a different perspective.

On the other hand, in Working Party I, when discussing quantitative restrictions for protective uses in under-developed countries, it was said that their application should be strictly limited to the establishment of new industries or new branches of industries. No quantitative restrictions should be allowed under any circumstances whatsoever for the protection of present industries and their expansion, unless new branches of production were introduced, or a substantial transformation carried out. This, from the point of view of the under-developed countries, was taking one step backwards, since under the present Article XVIII of GATT, the establishment of quantitative restrictions was allowed in a greater diversity of cases. To forego this advantage would be a very high price to pay in order to obtain the somewhat improved procedures presented in the draft elaborated by the secretariat. Furthermore, the Cuban delegation could not see why quantitative restrictions could be justified for the maintenance of agricultural production, as they were under Article XI, and not for the maintenance of industrial production.

Moreover, in the original draft of the secretariat concerning the new Article XVIII, it was established that quantitative restrictions which were imposed on products, the duty rates of which had been bound under Article II, were subject to the procedures of Section C of the said draft. This meant that in the last resort the under-developed country could, after due consultation, impose unilaterally the quantitative restrictions in question. This procedure had some aspects which were similar to the unilateral right provided to countries under Article XI for imposing quantitative restrictions against agricultural products. Nevertheless, such a concession to the under-developed countries, which was much needed and only fair, was not able to stand the first re-draft presented by the sub-group which studied the review of Article XVIII.

All these developments led the Cuban delegation to the thought that under-developed countries were being more and more excluded and the fact might perhaps have to be faced that the GATT should turn into a small private club, once this conference were over.
Mr. PHILIP (France) wished to explain the difficulties his Government faced and the reasons for their reservations regarding the proposal that the procedures for consultations be not only reinforced, with which they could agree, but replaced by a system of prior approval. Normally such a change would constitute progress towards the reorganization of a world market.

Mr. Philip wished to recall, however, the statement he had made to the CONTRACTING PARTIES on 8 December. In brief, the free exchange system of the nineteenth century was explained and justified on the basis that the dominant country pursued a system of free trade, that the City of London carried out a directing financial role, that the stability of production and exchange was ensured, and, finally, that the decisions of the City of London, a truly supranational authority, were accepted by all.

The system of prior approval contemplated replacing the City of London by the International Monetary Fund and the GATT. This objective, however, did not take account of certain realities of the present world. Firstly, nations were no longer ready to undergo the cost of adapting their economies to variations from the outside. Furthermore, the working class was organized as it had not been in the nineteenth century. In France, since 1952, the struggle against disequilibrium had first been carried out by means of classical measures which had been efficacious; but the real improvement had not occurred until the government had intervened with a policy of reconversion. In fact this intervention consisted rather in an encouragement which attempted to direct the expansion. A new equilibrium was now being reached within the framework of this expansion. Secondly, while it would be desirable to do as much on a universal level, this would require drawing up a common policy of full employment and stability. Methods to resolve the problems of the prices of primary products would have to be put into effect. The existing differences of remuneration and employment would have to be mitigated and a system of international investment established. It would be necessary for the CONTRACTING PARTIES to recognize the need for full employment and to adopt measures destined to deal with deflationary pressures. Certainly some small progress was to be noted. The CONTRACTING PARTIES had decided in principle to study the problem of primary commodities. An international society for investment had been created. The realities of the present world were beginning to be faced, but the necessary institutional framework had not yet been created.

So long as positive measures were not possible, the French delegate was disturbed by the possible consequences of simply negative measures. No doubt it was possible to reinforce the actual system of consultations, but the situation was not ripe to replace consultations by a system of prior approval so long as countries had not sufficient guarantees of full employment and equilibrium on the international plane. Therefore his Government opposed the elimination of quantitative restrictions and the establishment of a system of prior approval, fearing that at the slightest sign of the possibility of a crisis countries would return to nationalism.
Mr. Philip emphasized that the greater progress could be made within the European framework; neighbouring countries were able to progress further in international co-operation than could be envisaged on a universal plane. Countries which did advance on this level should not be considered by the CONTRACTING PARTIES as exceptions that must be supervised; on the contrary they should be regarded as setting an example. His delegation supported all measures capable of increasing international trade.

The meeting adjourned at 1 p.m.