WORKING PARTY 2 ON ARTICLE XVIII

SECTION OF DRAFT REPORT CONCERNING THE CUBAN MEASURE

The Working Party examined the statement submitted by the Government of Cuba (GATT/CP.3/1/Add.4). In addition, a considerable amount of information was adduced during the discussion, when verbal and written supplementary statements were presented by the representative of Cuba. As a result, certain inadequacies appeared in the original statement, and a revised statement (GATT/CP.3/1/Add.4/Rev.1) was submitted by the Cuban delegation to the CONTRACTING PARTIES for their consideration.

The Working Party noted that the measure consisted of the fixing of an annual import quota for the fibres of henequen and sisal (Ex Cuban Customs Tariff Item 129-A "abaca, pita and other hard fibres, raw or combed") equivalent to the quantity imported into Cuba in the year 1936 and that each producing country received an individual quota equal to its share in the import of the product into Cuba in that representative year.

In considering the eligibility of the measure, the Working Party established that:

(a) the measure was duly notified to the CONTRACTING PARTIES in accordance with paragraph 11 of Article XVIII, and

(b) the item was not one in respect of which Cuba had assumed an obligation under Article II of the Agreement.

The Working Party noted that although paragraph 4 of the Decree of 23 June 1939 provided that the quota should not apply to the United States, the measure was not discriminatory in its effect,
because the United States had not been a producer of the products in question. The provision in the Decree was made in accordance with the terms of the trade agreement between the two countries concerned, which had been suspended upon the provisional application of the General Agreement.

To eliminate the formal element of discrimination, the Cuban Delegation stated that the Cuban Government would, as soon as possible, take steps to eliminate the provision from the Decree. The Working Party, therefore, proceeded to examine the developmental nature of the measure.

The Cuban representative brought to the notice of the Working Party the fact that positive plans had been evolved for the development of the production of the henequen and sisal fibres, particularly the latter. The objective of these plans was to expand the production ultimately to 40,000,000 pounds per annum with 20,000 hectares under cultivation. In order to make the industrial products more competitive in the world market plans have been made to encourage the increased production of the higher grades of the fibres and to induce manufacturers to use a larger proportion of these higher grades of the fibres, especially sisal, in their production. Moreover, improvements in the quality of the fibres and in the method of cultivation had also been undertaken with a view to improving the marketability of the fibres.

The Working Party studied the statistical and other information presented by the Cuban delegation concerning the future consumption, export potentialities and the plans for the expansion of agricultural production. In studying the nature of the measure in the light of
these data, the Working Party recognized that the development aspect of the measure was sufficiently important to justify its maintenance under the relevant provisions of Article XVIII for a limited period.

The Cuban representative stated that the application was made under the provisions of sub-paragraph 8 (b) of the Article for a release from the obligations under Article XI of the Agreement. The Working Party considered the application to be in accordance with the provisions of paragraph 8 (b). As no contracting party raised an objection to the measure as a party materially affected, the Working Party concluded that a release, if granted, should be under sub-paragraph 8 (b) (i) of the Article.

The Working Party also discussed with the representative of Cuba the possibility of adopting a measure permitted under the Agreement to replace the quantitative restriction on imports. The Cuban representative stated that the removal of the present measure could not be undertaken until the branch of agriculture had been developed to a degree where it would be able to compete in the world fibre market, and until the effect of a tariff had been sufficiently studied and tested. The Cuban representative maintained that in order to sustain the confidence of investors and planters and to ensure the continued development of the branch of agriculture, the production should be protected from external competition for a period of 10 years, during the first part of which the use of a quantitative restriction would be essential. The Working Party, therefore, in agreement with
the representative of Cuba, recommends the CONTRACTING PARTIES to grant the release for a period of five years on condition that the formal discrimination contained in paragraph 4 of the Decree of 1939 be removed by the issue of a new decree.