Working Party 2 on Article XVIII

Section of the Draft Report concerning the Measures notified by Lebanon and Syria

The Working Party first examined the statement submitted by the governments of Lebanon and Syria (GATT/CP.3/1/Add.5) as a whole and heard an oral statement by the representative of Syria in support of the measures in general. The Working Party noted that, whilst control was generally exercised by means of import licences, the import restrictions differed in degree and in the methods of their implementation with respect to different items. They involved not only the fixing of quotas or total import prohibition, but also monopoly systems in the case of certain products. The Syrian representative, however, made it clear that all the measures contravened the provisions of Article XI of the General Agreement; and it was from those obligations that releases were sought under paragraph 8 (b) of Article XVIII. The Syrian representative also stated that the releases were applied for for a period of 5 years with respect to all items.

In view of the complexity of the question, the Working Party felt it necessary to examine the eligibility of these measures item by item. However, the measures had certain common features, and certain aspects of the question could be examined with respect to all measures. The Working Party noted that:

a) all the measures existed on 1 September 1947 and notification had been duly given to the Contracting Parties before 10 October 1947 of these measures;

b) the measures were non-discriminatory in nature; and
c) the measures would not affect any item in respect of which Lebanon and Syria had assumed an obligation under Article II of the General Agreement;

d) the measures were not otherwise permitted by the agreement.

On the question whether the measures had been imposed for the establishment, development or reconstruction of particular industries or branches of agriculture, certain separate supporting statements were made by the representatives of Syria and Lebanon. In addition, supplementary information was also supplied to the Working Party in the form of answers to a number of questions asked by the various members.

In the course of the examination of individual measures, with regard to their developmental nature, the Working Party experienced considerable difficulties in reaching a conclusion in respect of certain items, especially those concerning which precise and detailed information was lacking. Consequently, the representative of Syria, under instructions of the two governments concerned, agreed to withdraw a number of items from the application under Article XVIII, and informed the Working Party that control of the import of these items would be continued if necessary under Article XII of the Agreement. The Working Party took note of the withdrawal of these items from application under Article XVIII and proceeded to examine the remaining items.

The Working Party had had for its basis of consideration the list of products contained in Annex B to GATT/CP.2/38/Rev.1. The following items remained after the withdrawal and therefore formed the object of detailed consideration by the Working Party:

55  Oranges, lemons and similar fruits
59  Apples, pears and quinces
68  Wheat
Barley
Wheat flour
Sugar
Chocolate and articles made of chocolate
Preserves of vegetables or fruits
Fabrics of pure silk
Cement
Fabrics of artificial silk (except 477 and 486a)
Raw Cotton
Cotton yarn or thread (except 522 b,4)
Cotton fabrics
Hosiery (except 580 A a and b, and 581 A)
Glass and glass ware

The considerations of the Working Party on the nature of the measures and their purposes are set out below together with their final recommendations with respect to each item.

A. Citrus and other fruits

The Working Party noted that the import control on these products was carried out by means of the withholding of import licences according to crop conditions and variation in the home demand. It was noted in the statement made by the Syrian representative that a large scale irrigation programme had been set up before the war by the government of Lebanon, aiming at increasing the area of land under cultivation and improving both the quality and the quantity of the output. Implementation of the programme, however, had been delayed by various circumstances, including those caused by the war. Furthermore, the inherent high costs of production of such fruits as apples, pears and quinces due to the type of land used, was further
increased by the rise in labour costs and rendered domestic supply incapable of competing with imported fruits, which threatened to destroy the branch of agriculture. The government of Lebanon therefore intended to modernise the equipment and method of cultivation with a view to lowering the costs of production and to developing the branch of agriculture to the point where it could compete with foreign products. In Syria the same situation obtained, but here the activities of extending the irrigation system and increasing the number of plant nurseries and agricultural institutions were supplemented by the establishment of refrigeration industries.

With respect to citrus fruits, the representative of Syria also pointed out that in the years between 1938 and 1947, the plantations had suffered serious war damage. The military operations in 1941 took place precisely in that portion of the Lebanese coastal area where citrus fruit growing was most flourishing before 1939. The reconstruction of devastated orchards was therefore one of the chief factors to be taken into consideration with respect to citrus fruit production.

The Working Party came to the conclusion that the facts regarding the development of such fruits in general and the reconstruction of citrus fruits orchards were sufficiently important to make the measure eligible under paragraph 8 of Article XVIII.

After discussion, the Working Party agreed to recommend that a release be granted under sub-paragraph 8 (b) (1) of Article XVIII for the measures to be maintained for a period of five years.

B. Wheat

The Working Party noted that the control on wheat and barley at the time of notification took the form of a state monopoly, with the administration in charge of the monopoly fixing the quota for imports and exports on the basis of the production situation. When the monopoly
was abolished in March 1949, the licensing system remained in force and became the sole means of effecting the control, the quotas being now fixed by the Ministry of National Economy.

The representatives of Syria and Lebanon brought to the attention of the Working Party the developmental features of wheat production. Specifically, parts of the Jezireh area were brought under cultivation and sown to cereals and cotton in 1937, and development of this area was continued throughout the war with the adoption of up-to-date methods of cultivation and modern equipment. 1,500 tons of agricultural machinery were shipped to this area alone in 1948, and the use of chemical fertilizers was gradually promoted.

The Working Party was informed that the decline in the yield in 1947 was due to unfavourable weather conditions and that production had been considerably greater in 1948 and 1949, although no precise figures were yet available.

A sharp fall in the price of wheat had occurred since the end of the war, and in order that the peasants engaged in wheat production would not be ruined before development took effect, a quantitative restriction as an interim measure was urgently required.

The Working Party concurred in the views of the applicant governments' representatives that the branch of agriculture was under development and that therefore the measure should be accepted as eligible under paragraph 11, and agreed to recommend the approval of the application, under paragraph 8 (b) (i) of the Agreement, for the restriction to be maintained for a period of five years.

C. Barley

The import restriction on barley was effected by means of a monopoly which was subsequently abolished and superseded by the use of the licensing system, as referred to above in connection with wheat.
In examining this item the Working Party felt that the information presented by the delegations concerned was inadequate. The development nature was not borne out by the figures relating to the area and yield in recent years, nor has it been substantiated by any other evidence. However, the representative of Syria stated that the need for the maintenance of the measure was imperative for the time being and that the lack of substantial information was due to administrative difficulties, given rise by the abnormal conditions prevailing in that country. In the circumstances, the Working Party, taking account of the provisions of paragraph 14 of Article XVIII, felt that the application should not be refused outright, and consequently agreed to recommend a release for a period of two years, during which the governments would be requested to collect further data and prepare documentation for the submission of a new application. The representative of Syria agreed to this recommendation, with the understanding that his government would be free to submit a new application prior to the expiration of the two year period.

D. Wheat Flour

The Working Party considered the quantitative restriction on wheat flour in conjunction with the restricting measure relating to wheat. It was the view of the Working Party that, since the measure relating to wheat had been justified, to make that restriction effective it would be necessary for the two governments to restrict imports of wheat flour, as it was felt that an inundation of wheat flour into the countries concerned would have the same effect on wheat growing as the unrestricted inflow of the agricultural product itself. The measure relating to the import restriction on flour was therefore eligible for consideration because of the development of wheat production. The Working Party therefore recommends that a release be granted under sub-
paragraph 8 (b) (1) for the measure restricting the import of wheat flour to be maintained for a similar period of five years.

E. Sugar

The Working Party noted that crystallized, loaf and lump sugar was controlled in Syria by the monopoly law and imported by the State under contract to be sold on the domestic market at cost price plus a variable tax. In Lebanon, however, a licence was required for the import of sugar only as a matter of formality. It was understood that the monopoly system in Syria might be replaced by a quota system in the near future which would not be more restrictive of imports than the present system.

The representative of Syria stated that the sugar industry was being established and developed, with the size of the industry increasing from one factory at the beginning of the war, to three factories in 1949. According to the representative of Syria, the prospects of expansion were favourable as the present production covered only 30% of domestic consumption, and as vast areas were found in Syria suitable for the growing of beet and sugar cane,

The Working Party was of the opinion that Syria and Lebanon were justified in applying for consideration under paragraph 11 of Article XVIII the import restriction on sugar in view of the expansion in domestic production, and accordingly agreed to recommend that the application for a release from the obligations under Article XI be granted under sub-paragraph 8 (b) (1) for the proposed period of five years.

F. Chocolate and Articles made of Chocolate

The Working Party, in studying the supporting statement on this industry made by the representative of Syria, noted that the industry
had been set up as early as after the first world war. Although perceptible increases in output were found in the production of chocolate in Lebanon, no figures were supplied to evidence the expansion of the industry in Syria. Neither was it clear why the industry was particularly suitable for development in these countries concerned or whether its further expansion was achievable in view of the limited markets for the product. However, the majority of the Working Party felt that, even though the case on the ground of the development of the industry was therefore not established, the intention to develop the industry was discernable, as was seen in the experiments with making exotic types of chocolate in the two comparatively new factories at Beirut and Damascus.

The majority of the Working Party therefore agreed to make a recommendation with respect to this item, similar to the one regarding the restriction on barley; that is, that the Contracting Parties approve the maintenance of the restriction for a period of two years with the understanding that Lebanon and Syria, once having prepared adequate documentation in support of their case, would be allowed to submit a new application at any time prior to the expiration of that period.

The representative of the United States, however, abstained from voting when the Working Party decided to make this recommendation.

G. Preserves of vegetables and fruits

Concerning this measure, the Working Party was given to understand that the import restriction on the product was necessary not so much for the development of the industry as for its reconstruction. During the last war development of the industry had been on an exceptional scale owing to the presence of allied troops in the Middle East and
prevailing difficulties in obtaining supplies from abroad. During the peak period production had been three times as high as the pre-war level. Machinery in the industry was overworked while replacement was impossible and maintenance inadequate. Partly as a result of these factors, and partly as an effect of high costs of production, which made competition with foreign products difficult, post-war production had fallen considerably below the pre-war level.

The situation caused the two Governments in 1946 to intervene and impose the protective measure in order to restore production to the pre-war level. Plans for reconstruction had been put forward and machinery was being bought from abroad and installed. It was the belief of both the Governments concerned that once the re-equipment of the industry was completed, costs of production in the industry would be brought down to a competitive level so as to make the protective measure unnecessary.

In view of the evident need for reconstruction of the industry, the Working Party agreed that the protective measure was eligible for consideration under paragraph 11 of Article XVIII. The Working Party also took note of the statement by the representative of Syria that the two Governments would as soon as practicable replace the measure with tariff protection. With this understanding, the Working Party recommends that a release be granted under sub-paragraph 8 (b) (i) for a proposed period of five years.

H. Cement

The representative of Syria asserted that the industry was under development and the protective measure was required to assure it a market without causing an increase in the price such as would ensue if tariff protection were resorted to. The developmental nature was
evidenced by the setting up of a new factory in Aleppo, which was almost ready to begin production. Capital was being invested in the established factories for renewing obsolete equipment, and raising their productivity. The extensive construction plans of the country created for the industry an insatiable demand which, but for the price and cost differentials, would have been more than adequate to stimulate the expansion and promote the development of the industry. As regards the costs of production, it was stated that over and above the general cause of inflation and the high costs of living, a difficulty in their reduction lay in the high prices of imported fuel oil, used by the industry. It was hoped that when new pipe-line supplies were available, these would be substantially reduced.

The representative of Syria further stated that the governments would abolish the quantitative restriction, as soon as it became dispensable under changed circumstances, and that however, a release for a period of three years would be acceptable to his delegation if it were understood that at the end of that period, or before its expiration, Syria and Lebanon could make a renewed application for the continued maintenance of that measure based on facts established by the two Governments concerned at that time.

The Working Party came to the conclusion that the proposal was a reasonable one and agreed to recommend that the Contracting Parties grant the release under sub-paragraph 8 (b) (i) for the period of three years with the understanding referred to above.

I. Raw Cotton

The representative of Syria stated that cotton had been under extensive development in recent years. In his oral statement, reference was made to the revived interest on the part of the Syrian
public authorities in cotton growing around 1925, to the successful experiments carried out in later years in the growing of the American and Egyptian varieties on the Syrian soil, and to the subsequent expansion of the area under cotton. Especially since the year 1943–1944, the increase both in production and acreage had been remarkable. To foster further development a protective measure was, however, needed owing to the much lower world market price of the product.

The Syrian representative explained that export of raw cotton from Syria and Lebanon had always been insignificant and that the large quantity of cotton export in the year 1938 shown in the statistical tables submitted by his government merely represented the re-export of imported Egyptian cotton and not genuine export of Syro-Lebanese production.

The Working Party discussed the measure at length and concluded that the import restriction on cotton was eligible for consideration under paragraph 11. The Working Party, taking account of the Syrian need for economic development and the importance of this crop in Syrian agriculture, recommends that the Contracting Parties grant a release under paragraph 8 (b) (1) for the maintenance of the measure for the proposed period of five years.

J. Cotton Yarn and Thread

The Syrian representative stated that the Cotton Spinning industry, which was founded in the late nineteen thirties, served to process domestic production of ginned cotton and to supply the raw material for the textile industry. The production of this key industry had been consistently increasing ever since its establishment; new spinning mills were set up, and the number of spindles had increased sharply since 1944. Plans had been recently set forth for the expansion of the
industry to meet the requirements of the textile industry. The measure to foster this development was needed in view of the price discrepancies which made the position of the industry precarious at the present stage of its growth.

The Working Party, having regard to the important key position of the industry in the economy of the applicant contracting parties, was of the opinion that the case for the maintenance of the protective measures was established and that the measure should be eligible for consideration under paragraph 11 of Article XVIII. It recommends therefore that Contracting Parties grant a release under paragraph 8 (b) (i) for a period of five years from the time of this decision.

K. Cotton Textiles

The representative of Syria proposed that the three textile items, that is, fabrics of cotton, silk and artificial silk be considered together since the industries, though using different raw materials and producing different products, had many of their factors of production in common and were often confronted with the same kind of problems calling for similar measures for their solution. It was stated that the modern machine weaving industry, as different from the time honoured handicraft weaving did not begin until 1927, when power looms were introduced. At present even with the constant expansion of the machine weaving branch of the industry, the modernization of this industry was still in its early stage. In order to reduce the price of these fabrics, Government power was brought to bear on the industries for the use of more power looms. The figure of 1,000 looms with an estimated production of 1,500 tons of fabrics were contemplated.

With regard to the cotton fabric industry, 3,200 tons of machinery were imported in 1948 for installation in the two major factories at
Damascus and Aleppo. Moreover, production had increased considerably in 1946 and 1947, (exact figures were however yet to be had). The Syrian representative emphasized especially the potential demand in the region for cotton fabrics; the propensity to consume in countries of low standards of living being such, the effect of any industrialization and promotion of employment could not but be the raising of the demand for such basic goods to unlimited dimensions.

But before the industry could be so expanded to the optimum size where the costs of product would be the lowest, protective measures were required to help it to withstand the erratic fluctuation in world cotton goods prices.

The Working Party felt that a substantive case had been put forward and that the criterion regarding the developmental nature of the industry was fully met, thus qualifying the protective measure for consideration under paragraph 11 of the Article. The Working Party, accordingly recommends that the Contracting Parties grant the release as requested, under sub-paragraph 8 (b) (i), for a period of 5 years from the time of the present decision.

L. Silk and Artificial Fabrics

The statement presented by the Syrian representative referred to above in connection with the cotton weaving industry also covered the production of natural and artificial silk textiles. However, the majority of the Working Party felt that the statement and data related chiefly to cotton weaving and that most of the arguments presented there were hardly applicable to silk and artificial silk textile production. It was therefore suggested that the Working Party would be obliged to make a negative recommendation on the item.

However, it was also felt that the abnormal and difficult circumstances in Syria and Lebanon under which the supporting statement had been
preparing should not be left out of consideration and that the sheer multitude of items about each of which information had to be supplied imposed physical burden making the preparation of all such information extremely difficult. Taking into consideration these factors, the Working Party agreed to recommend that the CONTRACTING PARTIES do not request the immediate withdrawal of the measure, but defer their decision on these items to the fourth session and that the Governments of Syria and Lebanon be requested to submit a statement of considerations in support of the measure regarding these items at least two months before the opening of that session. In submitting the recommendation, the Working Party secured the agreement of the representative of Syria that such a statement would be submitted according to the procedure to be adopted by the Contracting Parties at this session on between-session procedures.

M. Hosiery

With regard to this item the situation was similar to that of the natural and artificial silk industries. Since the same reasons regarding the actual difficulties referred to there also applied here, the Working Party felt disposed to make a similar recommendation, namely that the decision on this item be deferred to the next session on the condition that the Governments of Syria and Lebanon undertook to submit a supplementary statement, at least two months before the commencement of the next session.

With regard to the above two items, the Working Party had drafted a draft decision to be taken by the Contracting Parties, which is attached to the Report.
N. Glass and Glassware

The Working Party took note of the statement by the Syrian representative that the primitive artisan industry which was given a start and made certain progress during the last war, was threatened with collapse through its complete inability to withstand foreign competition. The enterprise concerned after financial reorganization recently completed the construction of a new factory equipped with modern machinery and ready for production this year.

The measure, consisting of the fixing of an import quota, was adopted before September 1st 1947 with a view to fostering its development and had had the effect of inducing more investment into the industry which pointed to the final establishment of the industry on a sound basis.

The Working Party considered that the measure was designed for development of the industry and should be eligible under paragraph 11 of Article XVIII. It recommends accordingly that a release for a period of 5 years be granted under paragraph 8 (b) (i) of the Article.

A precise description of the products referred to above, together with the tariff items numbers and description under which these products fall, is contained in Annex C to this report.

In considering all measures notified under Article XVIII the Working Party has been of the opinion that for the purpose of showing the exact nature of a measure the basic law or administrative decree for the implementation of each measure should be supplied to the Contracting Parties together with other information requested. In the present case the delegations of Syria and Lebanon were unable to supply such documentation. The Working Party, having regard to the special conditions in those two countries at present, agreed not to insist upon this point.
However, the Working Party, in doing so, wishes to make it clear that this should not prejudice future cases.

There has also been circulated to the Contracting Parties a synopsis of the information concerning these items (GATT/WP.3/WP.2/) supplied by the delegations of Syria and Lebanon in the course of the examination of the measures by the Working Party.