CZECHOSLOVAKIA CRITICIZES UNITED STATES ACTION UNDER ARTICLE XIX, "ESCAPE CLAUSE".

The Contracting Parties in the course of their Fifth Session meetings have agreed to admit an additional agenda item, namely "The assured life of tariff concessions with respect to Article XIX". The purpose of including this extra item, which was proposed by the delegation of Czechoslovakia, is described in the paragraphs which follow.

The Government of the United States has announced (on November 1) that in accordance with the findings of the U.S. Tariff Commission and in accordance with the provisions of Article XIX of the General Agreement the tariff duty concessions which had been granted by the United States on hats and related products made of fur felt, for women's wear, will be withdrawn on December 1, 1950. These concessions were granted by the United States as part of the U.S. tariff concessions which were negotiated at Geneva in 1947 and which were incorporated in the appropriate Schedule of the General Agreement.

Article XIX of the Agreement contains the so-called "escape clause". Paragraph 1 (a) of this Article states that if as a result of unforeseen developments any product is found being imported "in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products", the contracting party in question "shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession".

In this case, which is the first of its kind under the operation of the Agreement, the United States has withdrawn the whole of the tariff concessions on certain of the products in question, this being necessary - in their view - to give immediate relief and to prevent the continuance of serious injury to their domestic hat manufacturers.

International trade statistics show that in 1949 the main exporters of women's felt hats to the United States were Czechoslovakia and Italy, while France was a much smaller supplier.

The delegate of Czechoslovakia, Dr. Rudolf Bystricky, raised the matter on the principle involved, he said. It was, he said, the general opinion of the current press and commentators that the GATT had done a good job but that the weakest part of the Agreement was the uncertain legal basis with regard to many of the exceptional measures. The most important of these was that contained in Article XIX. He argued that the conditions required by Article XIX before a concession could be withdrawn had not been proved by the United States. He pointed out that paragraph 1 of Article XIX required (a) unforeseen development and (b) products being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers. These conditions must be fulfilled together. In his opinion an increase in import itself could not be considered an unforeseen development because GATT foresees the extension of trade. He added that a change in the fashion cannot either be considered an unforeseen development. As the United States duty on this item was the highest in the world in spite of the reductions in Geneva, there was no relationship of cause and effect between the tariffs and the asserted difficulties of the U.S. producers, he added.
Dr. Bystricky said that the current U.S. tariff rates on the items in question were 55% and 47.5% ad valorem and, he added, these tariffs should provide sufficient protection for a highly industrialized country such as the United States. On similar items most other countries had lower tariff rates than the United States. Yet the United States was now requiring an increase equal to about 70% on the value of the goods. This was at variance with the fundamental principles of the Agreement, he argued. Finally, Dr. Bystricky said that paragraph 1 of Article XIX had not been fulfilled as there had been no unforeseen development since the signature of the Agreement in 1947 and products were not imported under such conditions as to cause or threaten serious injury to domestic producers.

Mr. Winthrop Brown, United States, agreed that this being the first case under the Article XIX "escape clause", it was very important that it should be thoroughly examined. He pointed out that Article XIX had been inserted into the Agreement as a safety valve, because it was impossible to be sure that rates of duty agreed at one time might not have to be changed in unforeseen circumstances. The existence of Article XIX, he said, had contributed to a larger measure of tariff reduction than would have been the case.

Mr. Winthrop Brown said that the U.S. Tariff Commission - a non-political body of experts - had examined the claim of the U.S. hat industry for action under the escape clause. Public hearings were held and experts were sent into the towns and factories. The Commission concluded after very thorough study that a case had been made and recommended the withdrawal of the Geneva concessions on certain types of hats - the withdrawal to take place not later than December 1 in view of seasonal factors. The Report of the Tariff Commission showed that when the tariff concessions were made U.S. imports of these products were only 7% of domestic consumption. Today they were over 30%, while home production had shown a significant decline. The Report was a public document and available for study.

Referring to U.S. tariff concessions as a whole, Mr. Winthrop Brown said he felt that the U.S. had made substantial contribution to tariff reduction. Out of some 2,500 to 3,000 items on which reductions had already been made, there had been only 20 applications under the "escape clause" and of these only one - the application of the women's felt hat industry - had been successful.

Finally, Mr. Winthrop Brown said that the United States was fully prepared to consult at any time with the countries mainly affected, and had so advised the Contracting Parties on October 19.

The delegates of Italy and France both expressed the feeling that this was primarily a matter for discussion between the countries principally concerned and hoped that consultations could be held at once, and the delegate of Czechoslovakia accepted the offer to consult. It was therefore agreed that consultations should take place between Czechoslovakia, Italy and France on the one hand and the United States on the other, the results to be reported back to the Contracting Parties.