

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED
LIMITED C

GATT/CP.3/SR.11
9 May 1949

ORIGINAL : ENGLISH

Third Session of the Contracting Parties

SUMMARY RECORD OF THE ELEVENTH MEETING

Held at Hotel Verdun, Annecy

on Monday, 9 May 1949 at 2.30 p.m.

Chairman: Dr. H. van Blankenstein (Netherlands)

Subjects discussed:

1. The position of Palestine in relation to the General Agreement.
2. Formal confirmation of Declarations concerning acceptance of certain Protocols.

1. The position of Palestine in relation to the General Agreement
(Document GATT/CP.3/17)

Dr. BENES (Czechoslovakia) stated that a few weeks ago, his Government had entered into negotiations with the State of Israel regarding a bilateral trade agreement and had been informed by the Government of Israel that it did not consider itself bound by Schedule XIX, Section E, of the General Agreement contracted by the Government of the United Kingdom acting as the mandatory power for Palestine. He was satisfied with the Note prepared by the Secretariat (GATT/CP.3/17) and the draft declaration contained therein.

Mr. SHACKLE (United Kingdom) supported the draft declaration.

Mr. CASSIERS (Belgium) recalled that in 1947 the United Kingdom, acting as the Mandatory Power for Palestine, had granted certain concessions on behalf of Palestine to France and Czechoslovakia, that were of interest to the Benelux countries and Belgium had taken these into account when granting concessions to the United Kingdom. As the

State of Israel did not recognize the obligations contracted by the United Kingdom, acting as Mandatory power for Palestine, a certain disequilibrium had arisen. He therefore wished to enquire whether it would be in order to approach the United Kingdom with a view to the removal of that disequilibrium.

Mr. IECUYER (France) said that France did not intend to withdraw any concessions in its schedule to the General Agreement.

Mr. SHACKLE (United Kingdom) stated that the change that had taken place with regard to Palestine had been of a political nature and entirely outside the control of the United Kingdom Government. Israel was in a way the successor state of Palestine, and Palestine had, therefore, ceased to be a member of GATT.

The CHAIRMAN suggested that Article XXIII of the General Agreement provided for a situation such as that referred to by the representative of Belgium.

Mr. CASSIERS (Belgium) said that he was prepared to accept the CHAIRMAN's view. He wished to add, however, that as a rule negotiations conducted and concluded by one country should be re-opened only by that country.

Mr. HOLLIS (United States) supported the CHAIRMAN's interpretation.

Prof. RODRIGUES (Brazil) thought that the withdrawal of concessions granted by the United Kingdom on behalf of the mandated territory of Palestine constituted a change in a schedule annexed to the General Agreement and would require a unanimous decision by the CONTRACTING PARTIES.

Mr. SHACKLE (United Kingdom) said that his Government had not withdrawn concessions. As a result of political events, outside its control, concessions granted on behalf of the mandated territory of Palestine had ceased to be valid.

The EXECUTIVE SECRETARY said that the Secretariat paper had proceeded on the assumption that the first question to be determined was whether or not Article XXVII applied. If the decision was affirmative the consequences had two aspects. First, the concessions made on behalf of Palestine by the United Kingdom and included in Section E of Schedule XIX would disappear and it might be desirable to make the appropriate rectification subsequently. That could be done by a protocol of rectification approved by a unanimous vote. Secondly, there was the right of withdrawal of concessions granted by other Contracting Parties on Palestine products. This was clearly dealt with in Article XXVII which expressly provided for consultation with other interested Contracting Parties.

Prof. RODRIGUES (Brazil) could not agree that the question under discussion could be dealt with on the basis of the provisions of Article XXVII and thought that Article XXV of the General Agreement should be applied.

The EXECUTIVE SECRETARY said that the Secretariat, in arriving at its recommendation, had reasoned as follows. The United Kingdom had negotiated in Geneva in 1947 on behalf of the mandatory government of Palestine. On 15 May 1948, the mandatory government had ceased to exist. Therefore, at that date the United Kingdom could no longer be regarded as a contracting party in respect of Palestine. In these circumstances Article XXVII became applicable. It was not correct to say that the United Kingdom was withdrawing concessions. The mandatory government having ceased to exist the United Kingdom had ceased to be a contracting party in respect of Palestine.

Prof. RODRIGUES (Brazil) said that in view of the explanation given by the Executive-Secretary he would support the draft declaration.

Mr. CASSIERS (Belgium) suggested that the draft be amended so as to imply that Article XXIII of the General Agreement would be applicable if the case he had mentioned should arise.

The CHAIRMAN proposed, and the representative of Belgium agreed, that the recording of this proposal in the Summary Record of the meeting would be sufficient.

Mr. HOLLIS (United States) moved that the draft declaration be amended so as to read, commencing second line on page 3; "the CONTRACTING PARTIES declare that, since the United Kingdom ceased, as from 15 May, 1948, to be a contracting party in respect of the territory formerly included in the Palestine mandate, (a) Section E shall be deemed to be no longer a part of Schedule XIX, and (b) any contracting party"

Prof. DeVRIES (Netherlands) moved that the words "at any time" be deleted.

The CHAIRMAN said that the words mentioned by the representative of the Netherlands appeared in the text of Article XXVII of the General Agreement and did not imply any limitation. A reasonable interpretation, however, was that, although there was no time limit, the withholding or withdrawing of concessions should take place within a reasonable time after the new situation had been brought to the notice of the contracting party concerned.

Mr. HOLLIS (United States) said that the words of the declaration were not meant to be an exact quotation from Article XXVII of the General Agreement. He could not agree with the interpretation of the words "at any time" given by the CHAIRMAN; if following the withdrawal of a contracting party, other contracting parties maintained concessions, that would have a desirable effect from the point of view of the remaining contracting parties. In some cases, obligations would be upheld until such time as the failure of new negotiations became apparant.

The amendments proposed by the representatives of the United States and Netherlands were put to the vote and adopted unanimously.

The declaration as amended was put to the vote and adopted unanimously. The representatives of all the twenty-three contracting parties being present.

2. Formal confirmation of Declarations concerning acceptance of certain Protocols
(Document GATT/CP.3/19)

The CHAIRMAN recalled that at previous meetings Declarations were agreed upon by the Contracting Parties under Item 5 of the Agenda. The representative of the Lebanon having arrived at Annecy, it was now possible to confirm these Declarations as all contracting parties were represented at the meeting.

The Declaration accepting the Reservation as to Article XXXV attached to the Signature of the Union of South Africa to the Protocol modifying certain Provisions was put to the vote and adopted unanimously, the representatives of all the twenty-three contracting parties being present.

The Declaration concerning the Signature by Southern Rhodesia of the Protocol modifying certain Provisions and the Special Protocol modifying Article XIV was put to the vote and adopted unanimously, the representatives of all the twenty-three contracting parties being present.

The Declaration concerning the Acceptance of the Protocol modifying Part I and Article XXIX by Southern Rhodesia was put to the vote and adopted unanimously, the representatives of all the twenty-three contracting parties being present.

The CHAIRMAN invited comments on the "Note on the Decisions of the Contracting Parties Concerning the Interpretative Note to Article XXIV in Annex I".

Mr. ROWE (Southern Rhodesia) moved that the seventh line in paragraph 5 be amended so as to read "... the duty already paid and any higher duty that would be payable".

Mr. SHACKLE (United Kingdom) asked that the words "Contracting Parties" in the first and sixteenth lines of the note be put in capital letters.

Mr. WILLOUGHBY (United States of America) moved that in paragraph (ii) all words be deleted after the word "above" in the fourth line from the bottom. He thought that it was advisable not to recommend an amendment of the Charter before its ratification.

Prof. RODRIGUES (Brazil) supported the representative of the United States.

Mr. ROWE (Southern Rhodesia) said that the lines referred to by the representative of the United States were intended as an explanation of the first part of the paragraph and did not imply any obligation, but he had no objection to their deletion.

The amendments proposed by the representatives of Southern Rhodesia, the United Kingdom and the United States were put to the vote and adopted unanimously.

The Note on the Decisions of the Contracting Parties concerning the Interpretative Note to Article XXIV in Annex I as amended was put to the vote and adopted unanimously, all twenty-three contracting parties being present.

The meeting rose at 4.30 p.m.

