

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED
LIMITED C

GATT/CP.3/SR.12
14 May 1949

Original: ENGLISH

Contracting Parties

Third Session

SUMMARY RECORD OF THE TWELFTH MEETING

Held at Hotel Verdun, Annecy,
on Saturday, 14 May 1949 at 10 a.m.

Chairman: Hon. L.D. WILGRESS

Adoption of Emergency Measures to resolve the crisis of the
Cuban Textile Industry.

Mr. PANDO (Cuba) presented the case for his Government.

(See GATT/CP.3/23).

The CHAIRMAN said that the Cuban representative had mentioned two Articles, XVIII and XIX, by virtue of which a release from negotiated obligations was requested. In view of the different procedures provided in the two Articles, it would be necessary first to determine which Article was the more appropriate, before a Working Party was appointed to take up the problem. It seemed that the request would be more appropriately considered under Article XIX.

Mr. PANDO (Cuba) said that it was possible that some measures which might be needed to meet the crisis might affect products not included in the Cuban Schedule. The proposed Working Party, if it was to study the problem in all its aspects, should be given a comprehensive mandate; its terms of reference should not be limited to the provisions of a single article. The wording of the agenda item, which had been hastily drafted, was no guide as to the scope and nature of the problem, which should be left unprejudiced for the Working Party to examine.

Mr. SHACKLE (United Kingdom) pointed out that the terms of Article XIX, as was clearly stated in its paragraph 1 (a), was not limited to the effect of tariff concessions, but covered all unforeseen developments, and the effect of all obligations incurred under the Agreement. He therefore favoured the view that the Working Party should study the problem under Article XIX. However, Working Party 2 of this Session, which had been studying measures maintained under Article XVIII, could be consulted when necessary.

Mr. OLDINI (Chile) thought that the circumstances indicated that governmental assistance would be needed to support the industry in the course of its development. Hence, it was likely that measures permissible under Article XVIII might be found to be more appropriate or preferable. The proposed Working Party should therefore be directed to take into account the provisions of Article XVIII.

Mr. WILLOUGHBY (United States) found it difficult to comment on the question in hand without having first examined the Cuban statement. He also felt that the question would seem to be too technically involved to be thrashed out without prior meditation. However, a Working Party appointed to review the problem under Article XIX, should not regard itself as being precluded from referring to Article XVIII.

Mr. PANDO (Cuba) still felt that there was no need to refer the Working Party explicitly to Article XIX, since some aspects of the problem might be caused by events other than the kind of increased import referred to in paragraph 1 (a) of that Article. He therefore agreed with the suggestion of the representative of Chile.

Mr. SHACKLE (United Kingdom), although agreeing in principle with the representative of Cuba, still felt the Working Party should be required to confine its study at first under Article XIX.

It should not be given the impossible task of reviewing a very wide range of provisions of the Agreement. He therefore proposed that the Working Party should examine the problem in the first instance under Article XIX, but it would not be precluded from examining it under other articles.

Mr. RODRIGUES (Brazil) thought that in view of the complicated and far-reaching nature of the problem, Article XIX should not be given priority over other articles in the Working Party's consideration, since such a mandate might be construed to require that all arguments be exhausted under Article XIX, before reference could be made to another article, whereas by the nature of the problem, discussion could be started with advantage even with Article XVIII. As to consultation with Working Party 2, that Working Party was instituted to examine only those measures which were notified under paragraph 11 of Article XVIII, it would be going out of its way to discuss any new measures applied under the preceding paragraphs of that Article.

Mr. LECUYER (France) also felt that the Working Party should not be restricted to refer only to Article XIX. It had been demonstrated that there was urgent need for industrialization and particularly for development of the textile industry, to ensure economic stabilization. Therefore, the absence of accurate and complete data should not deprive the case of being studied in the light of Article XVIII.

Mr. WILLOUGHBY (United States) said that the United States delegation would be prepared to accept the United Kingdom proposal. However, it should be clearly decided first as to which Working Party would deal with the Article XVIII aspects of the problem.

The CHAIRMAN summed up the discussion and noted that there seemed to be a general accord to give the case a full examination in a Working Party; the difficulty in agreeing upon the terms of reference arose from the absence of a definite reference in the Cuban statement to a specific article. As a compromise, he would suggest that the Working Party should have a free scope for its deliberations, but should direct its attention in the first instance to Article XIX. In order to avoid overlapping spheres of interest; the Working Party should refer to Working Party 2 for advice on matters relating to Article XVIII.

The proposed terms of reference would therefore read:

"(a) to examine all the relevant facts submitted by Cuba, in the light of Article XIX;"

"(b) if such examination reveals that certain aspects of the action taken by Cuba are not covered by Article XIX, but fall more appropriately under other articles, to refer for further information and consideration to the CONTRACTING PARTIES;"

"(c) if Article XVIII is appropriate, to refer to the Working Party on Article XVIII."

Mr. PANDO (Cuba) thought that the representatives of France and Brazil had rightly interpreted the situation. To take a decision at this stage would be prejudicing the case; the questions of appropriate application of the Agreement should itself be left for the Working Party's consideration. As regards Working Party 2, that Working Party had already enough tasks to cope with, and the magnitude and complexity of the present case demanded that it should be considered separately in order to avoid confusion and delay.

The CHAIRMAN commented that the difficulty arose chiefly from the insufficiency of information. To meet the situation, he therefore suggested that a two-stage procedure be adopted; that is, a Working

Party should be appointed first to consider the question of procedure. When the Working Party had examined all the relevant facts and reported back, the CONTRACTING PARTIES, equipped with a better knowledge of the Cuban statement and any supplementary information that the Cuban delegation might be able to supply, would be in a better position to decide upon the correct procedure to be followed in dealing with the substance of the problem. The work could then be delegated either to the same Working Party or a new Working Party set up for the purpose.

Mr. SHACKLE (United Kingdom) thought this procedure would involve a range of inquiry so wide as to cover the whole Agreement. The lengthy study could be avoided if the Cuban delegation could indicate the type and nature of the measures to be applied. In the absence of such an indication, the Working Party would have to examine the whole situation with reference to many articles.

Mr. REISMAN (Canada) thought that it would be difficult to separate questions of procedure from matters of substance. If the Cuban delegation indicated under which article the measures should be reviewed in the first instance, it could be provided at the same time that consideration under any other article should not be precluded.

Mr. RODRIGUES (Brazil) thought that it would be unfair to require the Cuban delegation to limit its application to a single article. The Cuban Government, not being so well acquainted with the General Agreement as some other government, would be put in a difficult position if it were required to specify its wish under such a complicated instrument without having first heard the opinion of the more experienced delegations. Its difficulty lay not so much in the knowledge of its own economic situation as in the possible interpretation of the Agreement of other countries. The procedure proposed by the Chairman would enable such consultation and help the Cuban delegation to define its application.

Mr. COREA (Ceylon) supported the Chairman's proposal for a two-stage procedure. The first Working Party would provide an opportunity to the Cuban delegation to find the most suitable provision within the General Agreement and would therefore dispel the fear of the Cuban delegation that some aspects of the problem might be relegated because they might be found inapplicable under a given Article.

Mr. PANDO (Cuba) agreed with the representative of Brazil in the view that it was difficult for his delegation to be more precise about its application before consultation with other contracting parties. His delegation was presenting the proper problem for advice and it would be up to the CONTRACTING PARTIES to find an appropriate solution.

Mr. HEWITT (Australia) referred to the earlier suggestion made by the Chairman for the establishment of a Working Party. The representative of Cuba had asked that the problem be reviewed under Articles XIX and XVIII. This seemed to him to be a satisfactory procedure, and it should be left to the Working Party itself to decide whether Article XIX or Article XVIII should be taken up first. As regards the activities of Working Party 2 in dealing with matters falling under Article XVIII, there was in this respect no intrinsic difference between measures notified under paragraph 11 of that Article and new measures. Measures notified under paragraph 11 were to be examined, by the terms of paragraph 12, as if they had been submitted for consideration under paragraphs 1 - 10 of that Article. The consideration given by the Working Party to measures notified under paragraph 11 had resulted in the experience which should be utilised for the examination of the present problem in so far as the provisions of Article XVIII were relevant. By these means uniformity and consistency in the application of the Article would be achieved. He

thought that it would be in the interests of Cuba that those aspects of the case relating to Article XVIII should be considered in conjunction with Working Party 2.

Mr. van BLANKENSTEIN (the Netherlands) pointed out that five weeks had elapsed since the Item was placed on the Agenda, and the Cuban delegation ought to be able to present the case in more precise terms. The multi-stage procedure would cause an unnecessary extension of the Session. The Contracting Parties should therefore insist that the nature of the measures to be taken and the Article to be applied should both be clearly indicated before consideration was given to it. The Cuban delegation would have the opportunity of consulting other delegations in the course of the next few days before the question was taken up again by the CONTRACTING PARTIES.

Mr. OLDINI (Chile) proposed adjournment of the meeting in order that more thought could be given to the matter before the CONTRACTING PARTIES took a decision.

The CHAIRMAN agreed that a decision should be deferred until fuller discussion had taken place at another meeting. It was hoped that the Cuban delegation might be able to indicate more precisely its wishes after a few days.

The meeting rose at 1 p.m.

