

Third Session of the Contracting Parties

SUMMARY RECORD OF THE THIRTEENTH MEETING

Held at Hotel Verdun, Annecy,

on Wednesday, 18 May 1949, at 3 p.m.

Chairman: Dr. H. van Blankenstein (Netherlands)

Subjects discussed:

1. Continuation of discussion on the Cuban textile industry.
  2. Report of Working Party 4 on South African-Southern Rhodesian Customs Union.
  3. Non-discriminatory measures notified by the Government of Ceylon.
1. Continuation of discussion on the adoption of measures to resolve the crisis of the Cuban textile industry (Document GATT/CP.3/23)

The CHAIRMAN recalled that two drafts of terms of reference for the working party to be set up to consider item 13 on the Agenda were submitted, namely one proposal by the representative of Cuba (A/W/4), and one proposed by the Chairman as follows:

- "(a) to examine all the relevant facts submitted by Cuba in the light of the provisions of Article XIX.
- (b) If such examination reveals that certain aspects of the action contemplated by Cuba are not covered by Article XIX but more properly fall under other provisions of

the Agreement, to refer these matters for further consideration by the Contracting Parties or if the provisions of Article XVIII are the appropriate provisions to consult on these aspects with the Working Party on Article XVIII."

Mr. PANDO (Cuba) said that the terms of reference proposed by the Chairman limited the subject to Article XIX. He thought however that the scope of the terms of reference should be enlarged so as to provide for any other provision that might be applicable. If, as a result of unforeseen circumstances, no solution could be found under Articles XVIII or XIX, his delegation might wish to invoke other provisions such as Article XXV and he wished to reserve his right to do so in due course. He could not agree that the Working Party should be instructed precisely how to approach the question. Such procedure would prejudice the examination of the problem in all its aspects. He had indicated previously that in his view, the provisions of Article XVIII were applicable, if not to the whole question perhaps to some parts of it; the Working Party however had to study and to make appropriate recommendations on the basis of a full investigation of the information that his delegation intended to submit.

Prof. RODRIGUES (Brazil) said that the Cuban proposal was reasonable. The Working Party should be composed of members who had a special interest in the question and should be able to take care of it in a flexible manner and without prejudice to measures of substance. Wherever it is found that provisions of Article XVIII are applicable co-ordination with Working Party 2 should be established.

Mr. REISHAN (Canada) was in general agreement with the Cuban draft, subject however to amending the last three lines of the second paragraph so as to read: "(proper co-ordination) of its work with Working Party 2 on those aspects of the matter that come under Article X

and are dealt with by Working Party 2."

Mr. SHACKLE (United Kingdom) proposed to amend the second and third line of the first paragraph of the Cuban draft so as to read: "(Item 13 of the Agenda) in the light of any pertinent provisions of GATT, and to make ....."

The representatives of Belgium, Brazil, and the Netherlands supported the United Kingdom amendment.

Mr. PANDO (Cuba), referring to the United Kingdom amendment, said that Articles XVIII and XIX were the main articles on which, he hoped, the Working Party would base its consideration, and that in his view, the United Kingdom amendment did not introduce any point of substance. He could see no purpose in the Canadian amendment as his original draft expressed the same idea.

Mr. WILLOUGHBY (United States) preferred the original text of the Cuban draft to the Canadian amendment.

Mr. REISMAN (Canada) stated that the purpose of his amendment was to include in the terms of reference notions orally expressed at the previous meeting by the representatives of the United States and Cuba, namely that the word "co-ordination" in the fourth line of the second paragraph implied co-ordination between the two Working Parties.

The CHAIRMAN assured the representative of Canada that the word "co-ordination" in the Cuban draft was meant as co-ordination between the two Working Parties and the representative of Canada thereafter withdrew his amendment.

The United Kingdom amendment was put to the vote and defeated by ten votes to six.

The Cuban proposal (A/W/4 as follows) was put to the vote and adopted by fourteen votes to none:

"To study the question on textiles submitted by Cuba (Item 13

of the Agenda) in the light of Article XVIII, XIX and/or any other pertinent provision of GATT, and to make the appropriate recommendations to the CONTRACTING PARTIES.

"If the Working Party finds that in its consideration of the measures proposed by the Government of Cuba recourse is had to the provisions of Article XVIII, the Working Party shall take appropriate steps to ensure the proper co-ordination of its work on these aspects of the matter with the consideration which is being given by Working Party No.2 to the application of Article XVIII."

The CHAIRMAN said that as the CONTRACTING PARTIES had decided to set up a Working Party, he would propose its composition at the next meeting.

Mr. COELHO (India) thought that the CONTRACTING PARTIES should define clearly the nature of co-operation between the newly established working party and Working Party 2 as the latter had already a considerable agenda.

The CHAIRMAN suggested that it should be left to the Chairmen of the two working parties to find an appropriate method of co-operation.

The representatives of Brazil, Cuba and France, supported the Chairman's view.

2. Report of Working Party 4 on the South Africa-Southern Rhodesia Customs Union (Document GATT/CP.3/24).

At the invitation of the Chairman, Mr. COUILLARD (Canada) (Chairman, Working Party 4), introduced the report on the South Africa-Southern Rhodesia Customs Union and the draft Declaration annexed thereto.

Mr. COELHO (India) reserved his final view on the matter; the document had been circulated only two days before and there had not

been sufficient time for consultation with his Government. At the moment, he wished to give only tentative views: he inquired whether the first part of Annexure B on page 2 of the report indicated the introduction of any new or increased preferential tariffs.

Dr. NORVAL (South Africa) said that the second part of Annexure B on page 2 of the document indicated that no new or increased preferential rates had been introduced.

Mr. COELHO (India), presenting additional tentative views, said that he was particularly impressed by the absence of any definitiveness. He quoted in support of his view the following pages of the report:

"The representatives of South Africa and Southern Rhodesia indicated that their Governments have made no plans concerning the preferential rates of duty." (first three lines of second sub-paragraph of paragraph 2);

"Several members of the Working Party expressed regret that the Interim Agreement does not provide a more definite indication of the steps that will be taken ...." (first three lines of sub-paragraph 3 of paragraph 2); "The representatives of South Africa and Southern Rhodesia explained the problems involved in the re-establishment of this customs union which make it difficult to formulate at this stage a definite schedule or time-table..." (first four lines of paragraph 6).

The CHAIRMAN referred to the Declaration proposed by Working Party 4, specially to the undertaking given by the Governments of South Africa and Southern Rhodesia with regard to schedules.

Mr. MULLEN (Chile) supported the report and Declaration on the assumption that it had created a precedent, namely that a customs union could be approved without including a specific schedule.

Mr. WILLOUGHBY (United States) recalled that when, at a previous meeting, the subject had been brought up, his delegation had expressed the view that each case should be considered on its merits. The case

under consideration could not create a precedent because no two cases had the same characteristics.

Dr. NORVAL (South Africa) was prepared to admit that the customs agreement concluded last December did not entirely comply with Article XXIV with regard to a specific schedule. On the other hand, an undertaking had been given, and approved by the Working Party, which in his opinion was equivalent to the presentation of a specific schedule.

Mr. COUILLARD (Canada) did not agree with the representative of Chile that a precedent had been created. The Working Party, in examining the procedure to be established for the implementation of Article XXIV, came to the conclusion, mentioned in paragraph 7 of the report, that "consideration by the CONTRACTING PARTIES of proposals for customs unions would have to be based on the circumstances and conditions of each proposal and, therefore, that no general procedures can be established beyond those provided in the Article itself." With regard to the case under consideration, he recalled the passage in the last sub-paragraph of paragraph 6 of the report, in which the Working Party recommended "that the CONTRACTING PARTIES should formally request the two Governments to instruct the Council to include in each annual report a programme of the steps to be taken during the ensuing twelve months towards the attainment of the full customs union."

Mr. MULLER (Chile) agreed with the conclusion that each case should be considered on its merits. Nevertheless, precedents were created by the application of law. In the case under consideration, the schedule required by Article XXIV had been substituted, and so the first practical application of Article XXIV had created a precedent which his Government would cite should it be in the future a party to a similar union.

Mr. LECUYER (France) recalled the provisions of paragraph 10 of

Article XXIV and concluded therefrom that no precedent had been created in the application of Article XXIV.

The CHAIRMAN said that to establish precedents was clearly against the spirit of Article XXIV. It was mentioned in the report that the conclusions were arrived at under special circumstances. Precedents were created in law only if identical circumstances were applicable.

Mr. HASNIE (Pakistan) wished to inquire as to the nature and duration of a reservation made during a meeting by a representative of a contracting party.

The CHAIRMAN recalled that as had been stated by the representative of India, his delegation did not have sufficient time to consult his Government on a certain matter. He understood that the representative of India wished to make a statement on the question under consideration at a later stage of the present Session.

Mr. COELHO (India) suggested that when important items were put on the Agenda, sufficient time should be afforded for consultation with Governments. He inquired whether he would be obliged to make a statement before the end of the Session in order to clear his reservation.

The CHAIRMAN said that he did not intend to put an obligation on the representative of India. He had understood from his statement that he wished to state the view of the Government of India at a later stage of the present session. He drew attention to the basic difference between a reservation made by a delegation in the course of a meeting and a reservation made by a government on appending its signature to an international document. Replying to the point raised by the representative of Pakistan, the CHAIRMAN said that the Pakistan delegation might raise the question under item 20 of the Agenda.

The report of the Working Party 4 and the Declaration concerning

the Customs Union Agreement between the Governments of the Union of South Africa and Southern Rhodesia were put to a vote and adopted, it being understood that the representative of India might wish to report on the views of his Government at a later meeting of the Session.

3. Non-discriminatory measures notified by the Government of Ceylon (Document GATT/CP.3/20).

Mr. JAYASURIYA (Ceylon), referring to Document GATT/CP.3/20, said that of the fourteen industries scheduled in the statement, eleven were regarded as having been established during the war and, therefore, as falling under the provisions of Article XVIII, paragraph 7 (a)(i). With regard to these eleven products, the Government of Ceylon had not assumed any obligations under Article II of the General Agreement. Two other industries, namely rubber goods and cement, would fall within the scope of paragraph 7 (a)(iii) of Article XVIII, and referred to the utilisation of primary products found in abundance in Ceylon. There was only one item, namely leather goods with regard to which his Government had undertaken an obligation under Article II. He was hopeful, however, that in the course of negotiations, he would be able to arrive at some agreement with the contracting parties interested directly so as to revise the obligation of his Government in respect of leather goods. He said that the method of protection selected by his Government was one which claimed the least amount of restriction on international trade. Because of balance-of-payments difficulties, his Government had tried the tariff protection method and had found that it inflicted severe burdens on consumers whose average income in Ceylon was only Rs.250 (or £20) per year. The grant of subsidies was financially impossible for his Government because Ceylon's national income and revenue could



not warrant such payments. The object of the Ceylon Industrial Products Bill was to regulate the imports of only some industrial products by requiring the importer to buy a certain fixed proportion of the home-manufactured products. His Government would fix the prices of all regulated products and would also undertake to supply the importer with the fixed proportion of the same product which he would be required to buy before he could qualify for an import licence. No upper limit was set to the total imports of any of the products that became liable to regulations under that measure. All industrial products to which the provisions of the Bill were to apply would be brought under the control of the Minister of Industries for a fixed period of time. The representative of Ceylon wished to draw attention to the fact that his Government was prepared to consult with the CONTRACTING PARTIES in all cases in which it was proposed to apply the provisions of the Bill to any products other than those referred to in the statement, and that it was the intention of his Government to limit the regulation of the imports of the mentioned products to a period of five years.

The meeting rose at 6 p.m.

