

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED
LIMITED C

GATT/CP.3/SR.15
20 May 1949

ORIGINAL: ENGLISH

CONTRACTING PARTIES

Third Session

SUMMARY RECORD OF THE FIFTEENTH MEETING

Held at the Hotel Verdun, Annecy
on Friday, 20 May 1949, at 2.30 p.m.

Chairman: Dr. H. van Blankenstein (Netherlands)

Subject discussed:

Continuation of discussion of Report I of Working Party I on
Accession.

Continuation of discussion of Report I of Working Party I on
Accession (Document GATT/CP.3/26).

The CHAIRMAN invited comments on the section of the
Report which explains in general terms the draft Protocol of
Accession (paragraph 2 (b) of the Report under consideration).

Mr. BANNERJI (India) said that he was in general agreement
with the broad objectives of the Report and recalled that in practice
his Government had extended the full benefits of the Geneva Schedules
to the entire world. Referring to the first two paragraphs under
the heading "General" on pages two and three of the Report, the
representative of India wished to draw attention to Article 17,
paragraph 2b of the Havana Charter, the general principles of which
were to be followed by virtue of paragraph 1 of Article XXIX of the
GATT, namely, that no Member should be required to grant unilateral
concessions, or to grant concessions to other Members without

receiving adequate concessions in return. He also recalled paragraph 3 of Article 17. The representative of India found it difficult to reconcile the draft Protocol with the mentioned provisions of Article 17 of the Charter. According to the draft Protocol any acceding government would enjoy the benefit of all the Geneva Schedules as soon as it became a contracting party on entry into force of the Protocol, irrespective of whether or not there had been any exchange of concessions at Annecy between that acceding government and a particular contracting party.

He preferred the draft Protocol prepared by the Secretariat, which stipulated that the Protocol could not be brought into effect with respect to any particular existing contracting party and any particular acceding government until both became signatories to the Protocol. The serious substance of the matter had made it necessary for him to refer it back to his Government for final decision.

The representative of India could not agree with the report of the Working Party that Article XXXV and paragraph 5 (b) of Article XXV would afford the necessary safeguards. In sub-paragraph 1 (a) of Article XXV of the GATT, unlike sub-paragraph 4 (b) of Article 17 of the Charter, there was reference only to two parties not having entered into tariff negotiations with each other; there was, however, no requirement that such negotiations having been initiated had to come to a successful conclusion within the terms of Article 17 of the Charter. The draft Protocol under consideration created a situation where by vote of the requisite number of existing contracting parties an acceding government would acquire rights at least in respect to the Geneva Schedules and the other benefits of the GATT with regard to an existing contracting party without having successfully concluded tariff negotiations at Annecy. He recalled a statement made by the representative of the United States when introducing

Article XXXV at the First Session of the Contracting Parties :

"Mr. LEDDY (U.S.A.), replying to a question by Dr. Coombs, stated that if the unanimity requirement were amended in regard to accession, two-thirds of the Contracting Parties could oblige a contracting party to enter into a trade agreement with another country without its consent. His Government therefore felt that it was necessary to have a safeguard such as that which was proposed." (Document GATT/1/SR.7 dated 15.3.48).

He had the impression that the Protocol under consideration was not quite in accordance with the decisions of Havana, and suggested that it should be further considered by the Working Party. He stressed the fact that his Delegation did not wish to prevent the accession of any new government to the GATT but had in mind a safeguard for any particular contracting party with regard to any particular acceding government in a case where negotiations at Annecy did not come to a satisfactory conclusion. Acceding governments should be on a footing of equality with the existing contracting parties and should not be given an advantageous position.

Mr. COOMERASWAMY (Ceylon) supported the views expressed by the representative of India.

Mr. BENES (Czechoslovakia) reserved the position of his Government on the Draft Protocol for the time being. He agreed with the views expressed by the representative of India and preferred the original draft prepared, particularly paragraph 2, by the Secretariat, to the draft submitted by Working Party 1.

Mr. CASSIERS (Belgium) noted that an individual decision could be made in the case of each of the eleven acceding governments. It was necessary that the Geneva concessions should be taken into account by all the acceding governments during the Annecy negotiations.

In the case of Belgium the concessions granted amounted to 50% of his country's customs revenue. He was not opposed to the accession of any Government that was prepared to comply with the requirements of the Charter and of the General Agreement, but the Contracting Parties should deny accession to any acceding government not granting sufficient concessions at Annecy.

Mr. SHACKLE (United Kingdom) (Chairman Working Party I) said that the subject under consideration involved a difficult question of balance. Neither a contracting party nor an acceding government should be in a position to exercise pressure. It had been realized at Havana that the original Article XXXIII of GATT, which required a unanimous decision with respect to accession had actually given a veto power to each of the contracting parties. This was remedied by the adoption of the provision for a decision by a two-thirds majority. However, the effect of this amendment could have been to coerce a contracting party to reach a trade agreement against its will. The balance had been redressed by the insertion of the new Article XXXV and by the ability of a contracting party to utilize paragraph 5 (b) of Article XXV. With regard to the statement made by the representative of India, he said that the application of paragraph 5(b) of Article XXV need not cause delay and could be invoked he believed even before the end of the present session. Referring to the statement made by the representative of Belgium, he said that although the results of the negotiations of a particular acceding government should be considered individually, the Contracting Parties acting jointly should assess the results of the negotiations as a whole in making a Decision; to go further would, he believed, upset the balance in the other direction.

Mr. HOLLIS (United States of America) supported in general the views expressed by the Chairman of Working Party I. He recalled

that Mr. Leddy, United States representative at the Havana Session, in introducing the safeguards now incorporated in Article XXXV, had had in mind certain legal procedures required in the United States, as well as certain political difficulties of some of the contracting parties, which could not be put before the Contracting Parties as a whole. Article XXXV would only apply when negotiations had not been entered into. Any contracting party could avail itself of paragraph 5(b) of Article XXV when negotiations had been entered into but not satisfactorily concluded, and its case would be considered by the CONTRACTING PARTIES, acting jointly. With reference to the statement of the representative of India, he said that the proposed Protocol did not provide for unilateral concessions by any contracting party to any acceding government. An acceding government would assume the obligations as well as become entitled to the rights enjoyed by contracting parties. He pointed out that the contracting parties would enjoy the concessions granted by an acceding government during the Annecy negotiations as soon as that particular acceding government signed the Protocol, unless the acceding government withheld concessions from a particular contracting party under paragraph 4 of the Protocol.

Mr. ARANGO (Cuba) recalled that GATT was a group of nations that had associated themselves democratically to codify the rules of multilateral trade and to remove barriers to such trade. In order to achieve their aims they had made mutual sacrifices by lowering rates of duty, and through their application of the principle of m-f-n treatment, benefits would accrue to other nations that had not yet associated themselves with the GATT without giving anything in exchange to the Members of GATT. This had the effect that the most benefit would accrue to those nations that most delayed joining the GATT. He thought that in order to preserve the principle of equilibrium between

concessions granted and received, acceding governments should first of all compensate for the benefits which they had already received. Further benefits should be granted to such acceding governments, only if and when they made new concessions in favour of existing contracting parties. On the other hand, the CONTRACTING PARTIES should welcome any acceding government provided it was prepared to accept the two concepts he had expressed. He favoured the original Secretariat draft (GATT/CP.3/W .1.), and behind that the draft Protocol proposed by the Working Party had already had an adverse effect on negotiations. He believed it would put present contracting parties in a weaker bargaining position than acceding governments if their only safeguard was recourse to Article XXXV or to paragraph 5(b) of Article XXV.

M. LECUYER (France) thought that some of the fears expressed regarding the results of the Annecy negotiations were justified. Two remedies had been proposed, should negotiations with acceding governments fail: first, a contracting party that was not satisfied could refuse to vote for the accession of the acceding government and so in fact impose a sanction on the accession of that acceding government; and secondly, a contracting party that was not satisfied with the concessions made by an acceding government could refuse to sign the Decision with respect to that acceding government. He felt that the first solution would create two categories of acceding governments, i.e. some who would enjoy the Geneva concessions and some who would be denied those concessions. In the second case, a remedy could better be found in paragraph 5(b) of Article XXV. He preferred this latter solution.

Mr. REISAMN (Canada) considered that the Protocol prepared by the Working Party corresponded with the General Agreement. The suggestion made by the representative of India would require the

modification of the General Agreement and would alter fundamentally the compromise reached at the First Session at Havana. He recalled that as a result of the Havana compromise two-thirds of the contracting parties could require the other contracting parties to apply m-f-n treatment to an acceding government - which was what the draft Protocol provided. He agreed that the terms of accession had to be balanced and that acceding governments should be required to make tariff concessions in return for the benefits they derived from the existing Schedules. He thought, however, that recourse to paragraph 5(b) of Article XXV would provide an adequate safeguard for any contracting party which was unable to conclude successfully its negotiations with an acceding government.

Mr. JOHNSON (New Zealand) expressed the hope that tariff negotiations would be concluded successfully, and added that New Zealand did not wish to withhold the Geneva concessions. However, from the practical standpoint, his Government might be faced with certain legislative difficulties unless New Zealand was able to sign the Protocol prior to its entering into force for any acceding government.

Mr. USMANI (Pakistan) favoured the text of the Protocol submitted by Working Party I. He recalled how as a result of the extension of m-f-n treatment by the key countries initially signing the Protocol of Provisional Application of the Geneva Session, other countries had subsequently adhered to the General Agreement. He thought that the eleven acceding governments should be treated in the same spirit. It should be left to the Contracting Parties as a whole to judge whether a particular acceding government had made sufficient concession. He thought it would be preferable to enable the acceding governments to become a contracting party, and then the provisions of paragraph 5(b)

of Article XXV would amply cover a case such as that mentioned by the representative of India, should it arise.

Dr. NORVAL (South Africa) said that he was unable to subscribe to the Cuban point of view. He thought that it was not necessary to apply strictly in negotiations the quid pro quo principle, since any improvement in the general level of international trade would benefit all countries, including South Africa. His Government had already made the necessary arrangements to enable the Delegation to agree to the accession of new governments.

The meeting rose at 6 p.m.

