GENERAL AGREEMENT ON TARIFFS AND TRADE

ACCORD GENERAL SUR LES TARIFS DOUANIERS ET LE COMMERCE

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Third Session of the Contracting Parties

SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at Hotel Verdun, Annecy,
on Saturday, 21 May 1949 at 10 a.m.

Chairman: Dr. 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 - GATT/CP.3/26.

The CHAIRMAN invited comments on paragraph 2(b) of the report submitted by Working Party I.

Mr. HERRERA-ARANCO (Cuba) said that it was necessary to achieve a balance between the benefits in the Geneva Schedules and the concessions to be made by the acceding governments at Annecy. He referred to Cuba's Law No. 14 of 1935, which was still valid, and which provided that any country which bought from Cuba as much as 50% of what it sold to Cuba enjoyed a minimum tariff; a country which bought between 25 and 50% of what it sold to Cuba enjoyed a minimum tariff with a surcharge of 25%; a country which bought from Cuba less than 25% of what it sold to Cuba had to pay the general tariff which was double the minimum tariff. He recalled that contracting parties enjoyed the minimum tariff and that was the reason why he had to be so cautious with regard to concessions to be made by acceding governments.

Mr. HEWITT (Australia) suggested that the second sentence of paragraph 2(a) on page 2 be replaced by the following:

"Although it has been drafted in the form of a single Decision, it is expected that a separate vote will be taken by the Contracting Parties under Article XXXIII in respect of the accession of each government. This will enable a judgment to be made as to the accession of each individual government in the light of the results of the tariff negotiations with the acceding government concerned. The results of these votes would then be incorporated in the single form of Decision proposed by the Working Party."

He explained that the Working Party had envisaged that a separate vote on the accession of each acceding government would be taken by the CONTRACTING PARTIES in the light of the results of the tariff negotiations with each acceding government, and that an omnibus Decision would contain the results of these individual decisions or votes. He believed his proposed amendment would clarify the procedure.

Mr. SHACKLE (United Kingdom), (Chairman, Working Part I), considered the amendment moved by the representative of Australia as a valuable clarification of the procedure envisaged by the Working Party. He pointed out that paragraph 2 of the Preamble to the draft Decision Relating to Accession to the General Agreement on Tariffs and Trade provided for a separate two-thirds vote by the Contracting Parties with respect to each acceding government, and therefore the results of individual tariff negotiations could be taken into consideration when each such vote was taken. That procedure, he believed, would go a long way towards meeting the points raised by various contracting parties during this discussion. In addition, paragraph 5(b) of Article XXV would provide a sufficient safeguard for contracting parties after such a procedure. At that stage, a particular contracting party wishing to invoke Article XXV would have to put its case to the Contracting Parties, in view of the Decision on the accession of an acceding government taken by the Contracting Parties as a whole.

Mr. HOLLIS (United States of America) supported the Australian proposal. He recognized the desirability of either a separate Decision or at least a separate vote in each case, since each acceding government would then have to prove to the Contracting Parties that it had granted substantial concessions before its accession could be approved by a 2/3 majority Decision. He agreed with the representative of the United Kingdom that once an acceding government had become a contracting party as a result of a 2/3 majority Decision, it was reasonable for the burden of proof to shift to an existing contracting party which was not satisfied with the negotiations of such an acceding government in seeking recourse under paragraph 5(b) of Article XXV. Referring to the statements made by the representative of Cuba, he said that an acceding government immediately upon becoming a contracting party, would be under an obligation to apply its Annecy concessions to all other contracting parties, subject to paragraph 4 of the Draft Protocol (i.e., withholding provisions), Article XXXV, and paragraph 5(b) of Article XXV. Mr. Hollis suggested exploring the possibility of adding to the Protocol language which would give both to the existing contracting parties and to acceding governments, as the case might arise, the right to invoke paragraph 5(b) of Article XXV at Annecy, since the language of that Article itself might be so construed to prevent its application until an acceding government became a contracting party.

Mr. OLDINI (Chile) said that there might be a case in which an acceding government would not recognize the benefits of the Geneva Schedules and the balance between the concessions made by a contracting party and the concessions granted by an acceding government would then be impaired. In such a case, a contracting party should not be required to extend to an acceding government all the concessions to which the latter would normally be entitled under the General Agreement.

If his country, for example, had to grant such concessions to an acceding government with which it was not able to conclude satisfactory negotiations as a result of a two-thirds majority Decision under the proposed procedure, he felt that the principles of justice would be undermined. He recalled what the representative of India said: that it was one thing to let an acceding government become a contracting party and quite a different thing to grant to such an acceding country undeserved concessions. He did not, however, agree with the Indian representative's proposal to revert to the draft Protocol submitted by the Secretariat. Furthermore, the Australian proposal, while acceptable, was inadequate, and would not substantially alter the merits of the situation. Mr. Oldini proposed that the two-thirds majority rule for a Decision by the Contracting Parties with respect to accession under Article XXXIII should also be made applicable to the entry into force of the Protocol, i.e. two-thirds of the contracting parties should be required to sign before the Protocol could enter into force upon the signature of an acceding government. He also drew attention to the difference between the English and the French texts of Article XXXIII. In the former, the word "and" was inserted at the end of sub-paragraph (a), which meant that sub-paragraphs (a) and (b) were inter-dependent. In the French text, however, no equivalent of the word "and" was inserted at the end of sub-paragraph (a) and therefore two sub-paragraphs were independent. It was natural that the French-speaking delegations considered the French text as authentic, and he suggested that an interpretation of Article XXXV be added to the draft Report under consideration.

The CHAIRMAN, after pointing out the desirability of early action by the Contracting Parties on the Working Party's Report so that it could be referred to the joint Working Party on Accession (contracting parties and acceding governments), proposed taking the sense of the meeting.

Mr. BANERJI (India) thought that it was too early to come to a final decision as to the form of the Protocol and that it would be desirable to study the implications of the suggestions made by the representatives of Australia, Chile and the United States of America. If a vote were to be taken immediately, he would have to reserve the position of his delegation until the views of his Government were available.

Mr. SHACKLE (United Kingdom) (Chairman, Working Party I) said that while he had the impression that the Contracting Parties were in agreement as to the amendment proposed by the representative of Australia, he thought that the suggestions made by the representatives of Chile and the United States of America should be given further consideration.

After some discussion, it was decided that paragraph 2(b) of Report I of Working Party I, which explains the Draft Protocol of Accession, be referred back to Working Party I on Accession for further study in connection with the new proposals made by the representatives of Australia, Chile and the United States of America, and the suggestions made by the representative of India.

It was also decided that representatives of Ceylon, Chile, Czechoslovakia and India should be invited to participate in the deliberations of Working Party I on Accession.

The meeting rose at 12.45 p.m.