

GENERAL AGREEMENT  
ON TARIFFS AND  
TRADE

ACCORD GENERAL SUR  
LES TARIFS DOUANIERS  
ET LE COMMERCE

RESTRICTED  
LIMITED B

GATT/CP.3/SR/23  
9 June, 1949

ORIGINAL: ENGLISH

Contracting Parties

Third Session

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

Held at Hotel Verdun, Annecy

on Thursday, 9th June, 1949

Continuation of Report of Working Party 1 on Accession  
(GATT/CP.3/37)

Draft Protocol of Terms of Accession to GATT

Paragraph 3.

The CHAIRMAN reminded delegations of the changes suggested by the New Zealand delegation.

Mr. JOHNSON (New Zealand) wished to explain that his point regarding the enumeration of the schedules were merely that the Contracting Parties' schedules should be given the same numbers as at present and schedules of acceding governments should start with the number 24. He did not think that this involved drafting changes in paragraph 3.

Mr. SHACKLE (United Kingdom) agreed with the drafting changes proposed and suggested also that the words "pursuant to paragraph 12" be substituted for the words "with respect to any acceding government" in line 9 of the paragraph. He also pointed out that with the change in the numbering of the schedules, Annex A would become Annex B and vice versa.

Paragraph 3 was approved with these amendments.

Paragraph 4 was approved with minor drafting changes consequential on the new enumeration of the schedules.

Paragraph 5 (a) and (b) were approved.

Paragraph 5 (c)

Mr. COELHO (India) wondered whether the May and June dates mentioned were not too early in view of the extension of the conference. He also considered that acceding governments should have the same interval of 40 days between the two dates as had the original contracting parties.

Mr. SHACKLE (United Kingdom) stated that the two dates had been suggested by Working Party 2 on Article XVIII. The date of June 15th was recommended because it was desirable to have a certain amount of time for consideration of the notifications between the last date and the end of the conference.

Mr. HEWITT (Australia) agreed that there might be some merit in extending the date if it were objectionable to acceding governments but that decision might well be left to the Joint Working Party on Accession.

In reply to a question by Mr. Larre (France) the CHAIRMAN stated that the Contracting Parties might agree at this meeting that if the acceding governments wished to extend the date and it were so agreed in the Tariff Negotiations Committee, a further decision by the Contracting Parties would not be necessary.

Mr. GARCIA OLDINI (Chile) thought that Mr. Hewitt's suggestion was a practical one but that, in order to be fair, conditions for the acceding governments should be exactly the same as those for the contracting parties. The latter had had until the end of the conference to give notifications and he considered that the Working Party had proposed this date of June 15 with this intention. With the extension of the conference, the date should be altered.

Mr. RODRIGUES (Brazil) pointed out that the acceding governments were in a better position now than the contracting parties had been then, having all taken part in Havana and being aware of the situation. He considered the date quite fair.

Mr. SHACKLE (United Kingdom) pointed out that for the contracting parties there had also been an interval of some 20 days between the date of notification and the end of the conference.

The CHAIRMAN pointed out that this draft Protocol was intended to serve as a basis for discussion in the Joint Working Party and the Tariff Negotiations Committee and this particular point concerned chiefly the acceding governments. It would be best to await their views.

Paragraph 5 (c) was approved

Paragraphs 6, 7 and 8 (a) were approved.

Paragraph 8 (b)

Mr. USMANI (Pakistan) called the attention of the Contracting Parties to an anomaly that might arise out of this provision as drafted. As a result of Article XXVI, paragraph 5, it would be possible for a small number of countries which had accepted or acceded definitively to decide that other contracting parties applying the Agreement provisionally should cease to be contracting parties. He suggested that this might be overcome by substituting in line 3 of paragraph 8 (b) "pursuant to paragraph 5" instead of "paragraph 3".

Mr. SHACKLE (United Kingdom) agreed that this was theoretically a possibility but considered that it arose from the terms of paragraph 5 of Article 26 and he did not believe that the situation would be altered by changing the reference in paragraph 8 (b). The only way to deal with this question would be either by drawing up a new Annex H with new percentages which would be very complicated or by substituting for the phrase "at any time after the entry into force" at the beginning of the paragraph a definite period of time. He thought, however, that it might be best to wait and see whether any acceding government raised the point.

The CHAIRMAN said that the second suggestion could not be followed without amending paragraph 2 of Article XXXII and he hoped this would not be done. The fact that there are acceding governments would not alter the position under Article XXVI paragraph 5, and the Annex H figures. He considered that it should be left to the acceding government to accept or not the General Agreement as it exists at present.

Mr. USMANI (Pakistan) agreed that it was an academic question but thought it might prove embarrassing as such a decision must be taken by a majority of all the Contracting Parties whether applying the Agreement provisionally or definitively.

The CHAIRMAN pointed out that Article XXV, paragraph 4, to which Mr. Usmani was referring, specifically says "except as otherwise provided for in this agreement" and Article XXXII, paragraph 2, is such an exception.

Mr. HOLLIS (United States) drew attention to the fact that there was a technical difference between paragraph 8 (b) of the Protocol and paragraph 2 of Article XXXII.

Under the former it would be possible for all Contracting Parties, including acceding governments which had definitively acceded to the Agreement, to determine that an acceding government which was still applying the Agreement provisionally should cease to be a contracting party. On the other hand, under the provisions of paragraph 2 of Article XXXII, the right to determine that a contracting party which was applying the Agreement only provisionally should cease to be a contracting party, was restricted to such contracting parties as had accepted the Agreement definitively and did not include acceding governments which had acceded definitively under the provisions of paragraph 8 (b) of the Protocol.

Mr. USMANI (Pakistan) made some drafting suggestions and it was finally decided to amend paragraph 8 (b) by the addition of the words "paragraph 5 of" in the second sentence after the words "pursuant to paragraph 8 (a) above" in the fourth line after the words "instrument of accession."

Mr. LARRE (France) considered it indispensable to establish a new Annex H as he did not see otherwise how Article XXVI could be applied.

The CHAIRMAN pointed out that unless it were proposed to amend the General Agreement, a new Annex was not necessary because Article XXVI, paragraph 5, referred specifically to the signatories of the Final Act at Geneva and the 85 percent referred to their trade only. The trade of acceding governments depositing instruments of accession would not contribute to the 85 percent.

Mr. GARCIA OLDINI (Chile) considered the point raised by the delegate of France an important one and wondered whether there was any reason not to amend Article XXVI at this time.

Mr. HEWITT (Australia) saw no need for any amendment. Article XXXIII provides for accession to this Agreement and the Agreement itself provides for coming into force under the Terms of Article XXVI. An amendment would, in fact, result in a new Agreement between the various countries with a new provision for coming into force rather than accession to the General Agreement itself.

Paragraph 8 (b) was approved as altered.

Paragraph 9 was approved.

Paragraph 10 (a)

Mr. GARCIA OLDINI (Chile) inquired as to what would be the situation of governments unable to sign by the date provided, as he considered it unlikely that his own government would be able to do so.

Mr. SHACKLE (United Kingdom) said that the difficulty arose only in the case of those governments which required a special act of their legislatures in order to extend most-favoured-nation treatment to acceding governments. He considered it a pity to delay any further the date for signature and thought it likely that sympathetic consideration would again be given to any request for extension of time for signature by countries unable to sign by the date specified in the Protocol.

Mr. SANTOS VERAS (Brazil) pointed out that his government was in the same situation as Chile and he thought it more practical to fix a later date.

Mr. GARCIA OLDINI (Chile) understood the drafting difficulty of providing for this in the protocol but it was nonetheless necessary to provide for the problem and perhaps it could be done in the record of the meeting. This would be preferable to the granting of an extension of time by the Contracting Parties later, as a special concession to governments unable to sign by the date fixed. It was not a question of making concessions but of recognising facts.

Mr. SHACKLE (United Kingdom) wished it placed on record that sympathetic consideration would be given to a request for a waiver under certain circumstances but hesitated to go so far as to say definitively in advance that the waiver would be granted.

Mr. SANTOS VERAS (Brazil) agreed with Mr. Shackle's suggestion.

In reply to a question from Mr. Hewitt, Mr. SANTOS VERAS (Brazil) replied that the Brazilian Parliament recessed on 15 November and if approval was not given by that date, it could not be given before Parliament reconvened on 31 May; Mr. GARCIA OLDINI replied that the Chilean Parliament recessed on 15 September.

Mr. HEWITT (Australia) said that, in the light of these replies, it did not seem that a later date would help the situation.

Mr. AUGENTHALER (Czechoslovakia) pointed out that, due to the possible extension of the conference into August, it would be technically very difficult for those countries which had to prepare the text in their own languages to sign by October 31st.

The CHAIRMAN called the attention of the meeting to the purpose for which this session of the Contracting Parties had been called. It was to coincide with the Tariff Negotiations and to permit the new countries to adhere to the General Agreement. In the first draft of the Protocol, the date of signature was set for the end of the session and all contracting parties were aware before the beginning of the session that they would be expected to take a decision at the end of the session under Article XXXII. The three months' delay beyond the end of the session had been accorded in order to give governments time to consider their decision. It would be most undesirable, however, that this delay should be unduly extended and the accession of governments which had been invited to this session for that very purpose be thereby unduly delayed.

The meeting adjourned at 12.30.

