

Contracting Parties

Third Session

SUMMARY RECORD OF THE TWENTY-FIFTH MEETING

Held at Hotel Verdun, Annecy  
on Friday, 10 June 1949, at 2.30 p.m.

Chairman: Mr. L.D. WILGRESS (Canada)

Subject discussed:

Report of Working Party 3 on Consultation Procedure  
Under Article XII (GATT/CP.3/30).

Mr. PERRY (Canada), Chairman of Working Party 3, presented the report on consultation procedure under paragraph 4 (a) of Article XII. The proposals contained in the report were intended to constitute an interim arrangement which could be reviewed at a subsequent session. The report distinguishes between prior consultation and post consultation and also contains suggestions for the preservation of secrecy. The Working Party recommended that the chairman should be given authority to inaugurate consultations between sessions by appointing ad hoc committees to deal with requests for consultations which might be submitted to him by contracting parties. Alternatively, several members of the Working Party proposed that a committee, which would be responsible for conducting consultations between sessions, should be appointed by the Contracting Parties at the present session. Mr. Perry pointed out that the ad hoc committees would not be given authority to carry any consultation to a conclusion but merely to consult and report to the next session.

Mr. CLARK (Australia) asked for an explanation of the words "and if necessary to modify the terms of the consultation" in paragraph 7 of the report, and Mr. PERRY stated in reply that these words were intended merely to enable the chairman to take cognizance of changing circumstances during the course of any consultation which he might inaugurate.

Mr. AUGENTHALER (Czechoslovakia) suggested that the possibility of restrictions being imposed for reasons of national security had been overlooked by the Working Party, but in reply, the chairman drew attention to the fact that restrictions imposed for security reasons would fall under the provisions of Article XXI and could not lead to a request for consultation under Article XII which dealt only with restrictions imposed to safeguard the balance of payments of the contracting party.

Mr. MACFARLANE (Southern Rhodesia) asked for an explanation of the words "through a representative designated by each of them" in paragraph 7 (a) of the report, and in reply Mr. PERRY explained that the Working Party had not wished to anticipate the desires of contracting parties as to the method by which they should be notified of consultations inaugurated by the chairman; they might designate the person to be notified or, alternatively, the occupant of a certain office, and, therefore, the proposal left the decision with each contracting party.

The CHAIRMAN then called for a discussion of the alternative proposals contained in paragraph 8 of the report concerning the appointment of a committee.

Mr. CLARK (Australia) said that for reasons put forward at length at meetings of the Working Party, his delegation was of the opinion that the committee should be appointed by the Contracting Parties at the present session.

Mr. AUGENTHALER (Czechoslovakia) agreed, but suggested that the committee should be limited in number to ten members, including representatives of China, France, India or Pakistan, United Kingdom and the United States, with the remaining members being chosen by rotation.

Mr. MULLER (Chile) expressed agreement with the views of the Australian delegation.

Mr. JOHNSON (New Zealand) thought that the Contracting Parties should take the responsibility of appointing the committee and that any contracting party should have the right to be represented at meetings by an observer.

Mr. USMANI (Pakistan) also expressed agreement with the representative of Australia but did not agree with the suggestion that the chairman should be authorized to invite contracting parties which might be affected to join the committee.

Mr. SHACKLE (United Kingdom) said he would prefer a flexible arrangement; in view of the varying circumstances of requests for consultations it should be left for the chairman to appoint ad hoc committees. He thought that a committee of 10 would be too large, and also that it might sometimes be desirable for the chairman to invite certain contracting parties to participate even though they were not seriously affected by the proposed measures.

Mr. LAMSVELT (Netherlands) said that, although he was not strongly opposed to the appointment of a committee, he agreed with the representative of the United Kingdom that it would be best to leave the appointment in the hands of the chairman.

Mr. MACFARLANE (Southern Rhodesia) also agreed with the majority view of the Working Party on the ground that it is desirable

in the interest of secrecy that the committee should not be large, that no 10 contracting parties would be interested in all consultations which might take place, and that if a committee of 10 were appointed and other contracting parties which thought they were seriously affected were invited to join, the committee would be unwieldy.

Mr. WILLOUGHBY (United States) agreed with the majority view. A committee appointed to deal with all possible requests would be too large whereas the chairman could select ad hoc committees in the light of each particular case as it arises. He said he would welcome any means of ensuring that the contracting parties particularly interested would be selected as members.

Mr. PANDO (Cuba) inquired whether the proposal that contracting parties seriously affected should be asked to join the committee referred to in each of the two plans, to which Mr. PERRY replied that this proposal was associated only with the alternative plan of appointing a committee at the present session.

Mr. AMANRICH (France) also supported the majority view though without objecting strongly to the alternative. He thought the appointment should be left to the chairman for the sake of flexibility, but as a compromise he suggested that a contracting party which considered that its interests were seriously affected could attend the meetings and participate in the work of the committee. He distributed a draft revision of the paragraph as follows:

"Paragraph 8: In order to implement the recommendation set out in paragraph 7 (b) (iii) above the CONTRACTING PARTIES should authorize their Chairman to nominate and assemble an ad hoc committee or committees (which should be a representative sample of the CONTRACTING PARTIES) in order to facilitate the conduct of consultation under paragraph 4 (a) of Article XII.

"Any contracting party, not a member of the Committee or Committees, which considers itself likely to be seriously affected would on its representation, be given an opportunity to participate in the consultation as an observer.

"Paragraph 9: If the Chairman decides to refer the matter to an ad hoc committee, he should notify the contracting parties the composition of such committee, and when and where it will meet."

Mr. MULLER (Chile) said that full responsibility to decide on the composition of committees should not be left to the chairman, which then might not be constructed in accordance with Article 78 of the Havana Charter. He thought that ad hoc committees should be appointed like Working Parties during sessions of the Contracting Parties to which those who had shown an interest in the subject were appointed as members.

Mr. CASSIERS (Belgium) supported the French proposal, but suggested that the words "likely to be seriously affected would, on its representation, be given an opportunity" should be replaced by "interested in the question, will be invited".

Mr. CURY (Brazil) drew attention to paragraph 2 of the report in which it was stated that the Working Party's proposals were intended to supply a simple and flexible procedure merely as an interim arrangement. Accordingly, he favored the majority view of the Working Party but would have no serious objection to the French proposal if that were found to be more acceptable.

Mr. PAIDO (Cuba) agreed with the representative of Chile, but since it was to be only an interim arrangement he was prepared to leave the appointment of committees to the chairman; at the same time he would oppose the French proposal so as to relieve the chairman of the responsibility of deciding which contracting parties were seriously affected.

Mr. CLARK (Australia) stated that the General Agreement requires the Contracting Parties to act jointly in such consultations, and, therefore, the proposed authority should not be delegated to the chairman. The majority proposal would leave the whole selection to the personal discretion of the chairman, whereas if a committee were appointed by the Contracting Parties, the chairman would have the benefit of the committee's advice in inviting other interested parties to join the committee.

Mr. AUGENTHALER (Czechoslovakia) said that since it was only an interim arrangement he had opposed the French proposal but he would like to have the words "in the sense of Article 78 of the Havana Charter" inserted at the end of the phrase in parentheses.

Mr. KING (China) suggested that the appointment of committees should be left to the chairman on the understanding that appointments would be made in accordance with the plan set out in Article 78 of the Charter; nevertheless, the Contracting Parties might appoint a panel from which the members of ad hoc committees might be selected, for example, the members of the interim commission which the contracting parties might constitute such a panel.

Mr. SHACKLE (United Kingdom) thought that Article 78 was not necessarily a good guide for this purpose though no doubt the chairman would keep the terms of that Article in mind when appointing committees. He emphasized that the ad hoc committees would not conclude the consultations for which they were appointed, and he drew attention to the fact that there would be an opportunity under the procedures provided for in paragraph 7 for contracting parties to inform the chairman if they were likely to be affected by measures which were the subject of consultation.

The various proposals were then put to a vote.

The minority proposal contained in sub-paragraphs 8 (a) and (b) of the report was defeated by 12 votes to 5.

The proposal of the representative of China was defeated by 13 votes to 3.

The Czechoslovakian amendment of the French proposal was approved by 9 votes to 6.

The Belgian amendment of the French proposal was defeated by 9 votes to 4.

The French proposal as amended was defeated by 10 votes to 9.

The majority proposal of the Working Party, namely that ad hoc committees should be appointed by the chairman, was approved by 10 votes to 7.

Mr. COELHO (India) inquired whether possibly some guidance should be given to the chairman as to the desirable composition of committees that he might appoint, but Mr. PERRY replied that the Working Party had not wished to anticipate the decisions which the chairman would take in this connection.

Mr. WILLOUGHBY (United States) drew attention to paragraph 14 of the report which suggests that the consultation procedure recommended by the Working Party might be suitable if the need should arise for consultations under Article XIV or Article XV, and inquired whether the Contracting Parties would agree that the same procedures should be used; and Mr. PERRY remarked that the Working Party had put forward this proposal merely as a tentative suggestion since it considered that it was not called upon by its terms of reference to submit definite recommendations on these matters.

Mr. SHACKLE (United Kingdom) said that there was no doubt about the clarity of the provision for consultations under Article XV, but he thought that the arrangements for consultations should be used sparingly and unless questions which arise require urgent action they should be held over for discussion at the next session of the Contracting Parties. With this Mr. WILLOUGHBY agreed, but he thought it should be understood that the procedures were available in case of need.

Mr. JOHNSON (New Zealand) supported the opinion expressed by the representative of the United Kingdom.

Mr. PANDO (Cuba) opposed the suggestion that the procedures agreed upon at this meeting should be extended to cover consultations under provisions of the agreement other than those contained in Article XII.

Mr. PERRY, (speaking as the representative of Canada) said that there should be no delays in setting up procedures for consultations that might be found necessary under Articles XIV and XV and, therefore, it was his view that the proposal of the representative of the United States required careful consideration.

Mr. AUGENTHALER (Czechoslovakia) said that Working Party 3 had been constituted to consider procedures under Article XII: 4 (a), and for the suggestion that had now been made a new Working Party would be required.

The CHAIRMAN said that the United States proposal was a matter arising out of the report now before the Contracting Parties.

Mr. CASSIERS (Belgium) favored the United States proposal.



Mr. AUGENTHALER (Czechoslovakia) said that this question was not on the agenda and he would be opposed to its acceptance as an additional item for discussion.

The CHAIRMAN inquired whether it was the desire of the Contracting Parties to discuss the United States proposal under Item 4 of the agenda and this was approved by 9 votes to 6.

The meeting adjourned at 6.15 p.m.

