

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED
LIMITED B

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ORIGINAL : ENGLISH

CONTRACTING PARTIES

Third Session

SUMMARY RECORD OF THE THIRTY-FOURTH MEETING

Held at Hotel Verdun, Annecy on
Saturday, 30 July 1949, at 10 a.m.

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

Subjects discussed:

1. First report of Working Party 9 on the Budget (document Budget/3).
2. Cuban statement on margins of preference negotiated at Annecy.

1. First Report of Working Party 9 on the Budget

Mr. RODRIGUEZ (Brazil), Chairman of the Working Party, summarized the report which he recommended be accepted by the Contracting Parties.

Mr. SHACKLE (United Kingdom) thought they had a judicious report before them and asked for some clarification on the total expenditure for 1949, which was supplied by Mr. ROYER, Deputy Executive Secretary.

Mr. de VRIES (Netherlands) found some difficulty in giving judgment on the Budget for the Contracting Parties because its intimate connection with the ICITC and the unforeseeable volume of business the latter would have in 1950 complicated the setting of even the percentage charges. In fact the percentages of 50% and 90% would bear very heavily on the Contracting Parties if the work of the ICITC should become very extensive. To solve the difficulty he proposed the acceptance of the above percentages, provided that the actual expenditure should not exceed a "ceiling" figure.

The CHAIRMAN suggested that the details of the question which was dealt with in paragraph 7 of the Report be discussed when the Report was examined in detail. In the meantime he asked the Deputy Executive Secretary to reply to the general points raised by Mr. de Vries.

The DEPUTY EXECUTIVE SECRETARY said that the figures contained in Annex II did represent a "ceiling", in that the Executive Secretary would not be authorized to commit the Contracting Parties to any payment beyond these figures. The item "Experts and Consultants" referred to personnel which would be engaged in work for the Contracting Parties. If there were a conference of the ITO in 1950 this would not imply a charge for "Common Staff Costs" to the Contracting Parties. These costs were limited to established posts to the exclusion of temporary assistance which was budgeted separately for each meeting.

Mr. CASSIERS (Belgium) thought a better balance of charges could be struck if the percentages could be set at 90% during Sessions of the Contracting Parties, 50% between Sessions and at 10% during Sessions of the ICITO. He further wished to ask what provisions had been made for the reimbursement of any balance which might result from the estimates exceeding actual expenses.

The DEPUTY EXECUTIVE SECRETARY agreed that a perfectly watertight business deal - if such were possible - would require certain adjustments in the proposal before them, but he wished to point out the intricacy, and the costliness for the United Nations accounting services, of any change in the suggested distribution. The bookkeeping costs might conceivably amount to more than the actual saving. Moreover, the charge of 50% between sessions was a low one. It should also be borne in mind that the ICITO had financed the Contracting Parties at the rate of \$70,000 a year in 1948. With respect to Mr. Cassiers' second point, the answer was that the Contracting Parties would receive at the end of the year an account of the actual expenses. Any surplus would be disposed of by the Contracting Parties as they might themselves decide.

Mr. NICOL (New Zealand) referred to the provision for tariff negotiations in 1950 and asked whether they were likely to take place.

The CHAIRMAN pointed out that the fixing of a third round of negotiations was an item on the agenda and provision therefor had to be made for it in the budget.

The report was then taken paragraph by paragraph.

Paragraphs 1 to 6 were approved. With reference to the first part of paragraph 7 and to the earlier remarks of the Deputy Executive Secretary, Mr. CASSIERS said he did not believe that if his proposal were accepted the ICITO might ask for 60% between sessions instead of 50%. If this arrangement was thought to be a short-lived one he would not insist in his proposal, but if it should acquire any degree of permanence, he would press for a revision of the terms.

Mr. HEWITT (Australia) informed the meeting that he had sought instructions from his Government but had not yet received them.

The first part of paragraph 7 and paragraph 8 were approved.

On paragraph 9 the Deputy Executive Secretary had a technical point to make to the meeting on the repayment to ICITO of services rendered in 1949. Authority would have to be given to the Executive Secretary to repay such services during the first quarter of 1950, on the basis of the verified accounts for 1949. The contributions of the Contracting Parties were now in a suspense account and the Executive Secretary would transfer these amounts to the ICITO account at an appropriate time. The monies could then be used by the ICITO to meet its liabilities towards the United Nations in 1950. If the Contracting Parties accept the recommendation that these contributions for 1950, should, as a rule, be remitted by 1 April, 1950, the Executive Secretary would be in a position to finance expenditure out of current contributions and to use the 1949 contributions for repayment to the ICITO of services rendered in 1949, on the basis of verified accounts for the present budgetary year.

Mr. SHACKLE (United Kingdom) pointed out that the United Kingdom financial year began on 5 April and that a week's delay might be necessary to avoid paying two contributions in the same year.

The DEPUTY EXECUTIVE SECRETARY pointed out that in the present year advances had been received from the United Nations to cover the gross expenditure of ICITO and the Contracting Parties. The most that could be expected next year was an advance to cover ICITO expenditure alone. In order to avoid very serious cash difficulties it was necessary that sufficient contributions should be received before 1 April to cover the expenditure incurred during the first quarter of 1950.

Mr. SHACKLE (United Kingdom) said he would recommend payment as soon as possible but could not commit himself to any date. He suggested that Governments be informed and replies obtained from them.

The DEPUTY EXECUTIVE SECRETARY said that the recommendation of paragraph 9 was flexible; it provided that, if countries could not obtain authority to remit their contributions before 1 April 1950, they should make their contribution as soon as possible thereafter.

Paragraph 9 was approved.

The Executive Secretary was authorized to transfer the 1949 contributions of the Contracting Parties and the Acceding Governments to the ICITO account during the first quarter of 1950 on the basis of verified account for the period 16 August 1948 to 31 December 1949.

Mr. de VRIES (Netherlands) proposed the insertion of the words: "for 1950" after the word. "estimates" in the first line of paragraph 10. Referring to the remarks which suggested that "per diem" charges might be saved by arrangements with an inviting government or authority, he asked whether invitations had actually been received.

The DEPUTY EXECUTIVE SECRETARY replying to Mr. de Vries said that several members of the Working Party had considered the provision for Tariff negotiations somewhat inelastic. The budget

provided only for one session of the Contracting Parties, although it was possible that the latter might decide to meet concomitantly with the tariff negotiations. It was felt however to be undesirable to plan for tariff negotiations lasting more than five months. With respect to offers from inviting governments no firm proposals had been received but it seemed possible to make an arrangement along the lines suggested in the Working Party's report.

Mr. SHACKLE (United Kingdom) considered it in principle undesirable to depend on the favour of particular governments.

Mr. de VRIES (Netherlands) agreed with Mr. Shackle and thought some changes should be made. He thought it might be possible to find a place near Geneva where "per diem" charges would not be necessary.

Mr. LEWIS (United States of America) agreed with Mr. Shackle and thought the last sentence might be deleted entirely after "allowances";

The CHAIRMAN thought it would perhaps be best to delete the whole sentences starting from the word "moreover" and, with this amendment, paragraph 10 was approved.

Paragraph 11 was approved.

Paragraph 12 was approved in the following form:

"The budget estimates contained in Annex II provide for the services of two consultants being employed for four months on special preparatory work required for the proper discharge of the functions of the Contracting Parties."

Paragraph 13 and the two annexes were approved.

The report as a whole was approved.

2. Statement of the Delegation of Cuba on Margins of Preference Negotiated at Annecy.

Mr. VARGAS GOMEZ (Cuba) wished to express the regret of his Delegation that this matter had to be brought before the Contracting Parties.

It was particularly regrettable for them that this difference should have arisen with the United States of America, a country with which Cuba had the most friendly relations. Every effort had been made to obtain a settlement directly but with no success. He hoped the Contracting Parties would understand their position in this matter of the greatest importance to his country.

He then proceeded to read the statement which had been previously circulated to all Contracting Parties and which is here briefly summarized. The Cuban Delegation informed by the US Delegation of the latter's intentions to grant certain reductions in its most-favoured-nation rate which were also the object of preferential rates granted to Cuba at Geneva, asserted its point that no such reductions could be granted without its consent. This consent would only be given by Cuba through negotiations leading to compensation from the United States of America to such an extent as would restore the equilibrium set up by reciprocal concessions at Geneva in 1947.

The US Delegation however had concluded bilateral negotiations the result of which had been to reduce the Cuban margin of preferences on a certain number of items.

This implied changes in Schedule XX which could not be made effective, in accordance with Article XXV unless unanimous agreement of the Contracting Parties were secured.

With respect to Article 17 of the Havana Charter, there was no mention in that article of an obligation to eliminate preferences or to reduce Tariffs, rather the obligation was to enter into negotiations for those purposes.

"Prior international obligations", which, according to Article 17, could not be invoked by any Contracting Party to refuse to negotiate with another Contracting Party on preferences, might well be the obligations towards Cuba undertaken at Geneva in 1947 by the United States of America. That is to say, the United States of America could not invoke its "prior obligations" to refuse to negotiate with an acceding government but if the results of the negotiations were in conflict with these "prior obligations" they could "not require the modification or termination of such obligations, except (i) with the consent of the parties to such obligations, or, in the absence of such

consent, (ii) by modification or termination of such obligations in accordance with their terms.

Independently of the above, the unilateral modification of the margins of preference would leave in the hands of the United States of America the possibility of impairing, or even annulling, the compensations obtained by Cuba at Geneva, in exchange for which Cuba had made its concessions to the United States of America.

Apart from the legal aspects of the question it should be remembered that a preferential system had existed between the United States of America and Cuba ever since the latter's inception as an independent republic in 1902; that the economy of Cuba was based on this relationship and that it could not consequently be changed once the two countries had agreed to eliminate all preferences - except through a period of preparation and transition.

The Cuban Delegation therefore requested that the CONTRACTING PARTIES declare that the negotiations, carried out by the United States of America at Annecy and eliminating the margins of preference maintained in force since the Geneva negotiations, be declared "lacking in efficacy or validity pursuant to GATT unless the previous and express consent of Cuba is obtained".

At the end of his statement Mr. Vargas Gomez added that in view of the complexity of the matter, which had not only a legal but a substantial aspect, a working party would be best qualified to deal with it.

Mr. EVANS (United States of America) expressed the regret of his delegation that it had not been possible to find a satisfactory solution in the course of the conversations which had been going on for some time. As there had not been time to prepare a complete statement he would at this stage give a brief summary of the position of the United States of America. In his opinion the question was a simple one. Did the General Agreement preclude a Contracting Party from reducing a most-favoured-nation rate of duty so as to reduce a margin of preference?

The Cuban contention was based on the assumption that the answer was in the affirmative. The US Delegation had never doubted that it was in the negative, because

- (1) the specific language of the Agreement made it clear that the rates in the schedules were ceilings.

(2) the whole purpose of the Agreement was the reduction of trade barriers.

A different conclusion would be so opposed to the spirit of the agreement that one would have to think of some drafting error.

Article II, paragraph 1 (b) made it quite clear that no rates higher than those contained in the schedules could be charged but nothing prevented a Contracting Party from changing lower rates. In point of fact, Contracting Parties were in many cases charging rates lower than those contained in their schedules.

If the language of the GATT were not conclusive, the whole history from Article 7 of the Lend-Lease agreements, to the original draft charter and its subsequent development into the Havana Charter, and finally, the preamble to the Agreement itself. A document whose purpose was to reduce trade barriers would have been badly drafted indeed if its effect had been to prevent such reduction.

In reply to Mr. EVANS who asked whether the Cuban statement which had been distributed was to receive a symbol; the Chairman stated that the circulation had been made at the request of the Cuban delegation and that it was to be considered "restricted" as any other document.

The meeting adjourned at 1.10 p.m.

