

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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TARIFF NEGOTIATIONS WITH BRAZIL  
Tariff Negotiations Committee

PROCEEDINGS OF THE ELEVENTH MEETING

Held at the Bâtiment Electoral, Geneva  
on Monday, 23 June 1958 at 3 p.m.

Chairman: Mr. FINN GUNDELACH (Denmark)

- Subjects discussed:
1. Progress of negotiations
  2. Closure of conference
  3. Arrangements for giving effect to the results of the negotiations
  4. Date of next meeting

1. Progress of negotiations

The representative of Brazil gave some brief indication of the progress of the negotiations:

United States - Proposals submitted to Washington were under examination there. He hoped approval would be forthcoming in about three weeks.

United Kingdom - The negotiations had not yet been concluded.

South Africa - He was awaiting a reply from the South African delegation.

Australia - He was awaiting a reply from the Australian delegation.

France - Agreement had been reached.

Benelux - He was awaiting agreement from the Hague.

Italy - Agreement in principle had been reached.

Norway - Agreement signed.

- Finland - Agreement signed.
- Sweden - Agreement signed.
- Czechoslovakia - Negotiations completed.
- Greece - No negotiations.
- Austria - Nearly completed.
- Denmark - In progress.
- Burma - No negotiations.
- Chile - Will negotiate only after 1 August.
- India - He was awaiting a reply from the Indian Government.
- Peru - No further news.
- Dominican Republic - No further news.
- Uruguay - Not yet started.

## 2. Closure of conference

It was agreed to fix 31 July 1958 as the closing date of the conference. By that date the bilateral negotiations should be completed, the form of the draft protocol and decisions be agreed upon by the Tariff Negotiations Committee and the report on the result of the negotiations required under paragraph 3 of the waiver should be ready to be sent to the CONTRACTING PARTIES for their approval. In timing these arrangements the Committee would bear in mind the fact that the Decision of 16 November 1956 expired on 14 August 1958 and that its provisions would have to be extended until the entry into force of the new Schedule III.

The representative of the United States, while not objecting to the fixing of 31 July as the closing date, wished to reserve his Government's position with respect to its negotiations with Brazil should these not have been completed on that date.

3. Arrangements for giving effect to the results of the negotiations

Mr. Royer (Deputy Executive Secretary) said the entry into force of the results of the Brazilian negotiations involved some complex legal problems which would have to be considered by the Committee as soon as possible. The secretariat thought it would be possible to give effect to the results of these negotiations along the lines of the procedures of Article XXVIII, i.e. by incorporation in a protocol of rectifications and modifications. After examining the legal position it appeared, however, that as the procedure for negotiations was laid down in the Decision of 16 November 1956 in terms which did not entirely tally with Article XXVIII, it would be difficult, unless all parties agreed, to apply automatically the Article XXVIII provisions for the entry into force of the results. Moreover, the Decision did not provide anything for the putting into force of these results. Finally, even if the results of the Brazilian negotiations could be compressed into the mould of Article XXVIII there would still remain a number of additional concessions either with countries which had not hitherto negotiated with Brazil or with contracting parties taking part in the Brazilian renegotiations which could hardly be covered by the procedures of Article XXVIII. Account had been taken of these matters in the preparation of the drafts submitted to the Committee.

The principal drafting difficulty arose out of the fact that the schedules were an integral part of Part I of the Agreement and could therefore only be modified in accordance with specific provisions of the Agreement or, if no such provision were relevant, by acceptance of the changes by all contracting parties under Article XXX. If the intention was to catch under the same protocol the results of different types of negotiations, the Torquay Protocol, which covered withdrawals and modifications under Article XXVIII and new concessions, would be an appropriate model.

In view, however, of the unanimity requirement of Article XXX and of the time required to secure such unanimity some means had to be found whereby the results of the negotiations could be brought into effect promptly without waiting for all contracting parties to sign the protocol. The way to solve this legal difficulty would be to have recourse to Article XXV:5. The original draft decision contained in TNB/19 was based on that assumption; it extended the original waiver in order to enable Brazil to suspend the present Schedule III and authorize Brazil and the other contracting parties to put into effect the results of the negotiations pending the entry into force of the protocol. In view of the fact that the report to the CONTRACTING PARTIES of the negotiating contracting parties might not be received by the CONTRACTING PARTIES before 14 August 1958, the date on which the Decision of 16 November 1956 expired, and of the general desire to avoid resorting too frequently to the provisions of Article XXV:5, he had submitted a new suggestion<sup>1</sup> which was simpler and which contained two draft decisions to take the place of the original decision on page 2 of TNB/19. The first of these two drafts provided for the extension of the time-limit provided in paragraph 1 of the Decision of 16 November 1956. The second of the two draft decisions

<sup>1</sup> Since distributed as TNB/19/Add.1.

noted that the CONTRACTING PARTIES having been consulted had no objection to the entry into force of the results of the negotiations before the final acceptance of the Protocol and recognized the right of contracting parties to modify their schedules accordingly. The procedure of negative unanimity had already been used by the CONTRACTING PARTIES on previous occasions when unanimity was required and when there was general consensus to act without waiting for formal acceptance by all contracting parties.

Of the two alternatives which were before the Committee he considered that the first would be legally more watertight, if more cumbersome, whereas the second would be simpler if less perfect. Under the draft decision as prepared in TNB/19, the six months' time-limit within which concessions might be withdrawn or modified as a consequence of modifications or withdrawals by other contracting parties would be available only to contracting parties which had not negotiated, or not completed their negotiations, with Brazil. He had felt that negotiating contracting parties could be asked to waive this right since they would have been in a position to consider the effect of the negotiations on their interests. This would avoid a chain reaction if contracting parties were to withdraw a number of concessions with Brazil and the only risk would be the possibility that contracting parties which took no part in the negotiations (and would probably not be seriously affected by the withdrawals of Brazil or other negotiating contracting parties) might withdraw some concessions.

As regards the protocol, it would appear also that there would be an advantage in having a final record of the results of the negotiations in a single instrument. If, in the case of renegotiations under Article XXVIII which are limited to individual items the signing of bilateral lists and the incorporation of the results in a protocol of rectifications and modifications could be considered satisfactory, in the case of the replacement of a schedule it appeared desirable to have a formal instrument different from the usual protocols of rectifications and modifications.

4. Date of the next meeting of the Committee

It was agreed that the next meeting of the Committee would be held in the first half of July.