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GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session,

SUMMARY RECORD OF THE SIXTH MEETING

Held at the Palais des Nations, Geneva, on  
August 19, 1948, at 3:00 p.m.

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

MODIFICATION OF THE GENERAL AGREEMENT

The discussion was resumed and Mr. CASSIERS (Belgium) said his Government had no objection to conform to the provisions of the Charter even before the Charter itself came into force; but various Governments had difficulties of a political, technical or Parliamentary nature which he appreciated. If some day it should become clear that the Charter would not come into force, then the Contracting Parties would come together and decide what was to be done. He supported the setting up of a Sub-committee to examine which articles of the Charter could replace those of the Agreement and was prepared to accept any suggestion made by this Sub-committee.

Mr. COUILLARD (Canada) wished to say that when he last spoke, he was acting upon instructions and expressing the views of his Government. In moving that no replacement of Part II of the Agreement be examined in this Session, he had not spoken of Article XXIX which was in Part III; he had said that he would not enter into legal disquisitions; his arguments were of a practical nature. He rejected the

implication of callousness made by some representatives and wished to point out that Canada had not opposed the modification of Articles XIV and XXIV in which Canada had no direct interest. There were articles of which Canada might favour a supersession, but for over-all reasons based on difficulties of all kinds, he thought supersession was not opportune. He also wished to repeat that Canada was, in consideration of its area, the second largest under-developed country in the world. Part II of the Agreement would eventually be superseded and the short delay involved could not be of great importance. If the Charter did not enter into force, machinery was provided by Article XXIX for revision of the Agreement. The Canadian delegation, however, in view of the arguments which had been raised, and to show its spirit of collaboration, withdrew its formal motion. They still believed in their arguments. He felt that it was in the Charter that under-developed countries should find protection, and warned the Contracting Parties that by lightly replacing the articles of the Agreement, they might endanger the ratification of the Charter. He supported the proposals made by the Netherlands Delegation and others to replace only certain articles. He suggested Articles III and XVIII, and Article XXIX. As to the addition of articles relating to subsidies, he wanted to point out that it might well be that no practical result would be achieved as the Contracting Parties were not under any obligation to accept amendments proposed.

Mr. CAMPOS (Brazil) had heard the arguments for and against the automatic supersession of Part II and thought the arguments for supersession were stronger. He did not attach the same importance to all articles: for instance, he considered Article 13 of the Charter important but favoured a

general rather than a piece-meal supersession.

On the question of subsidies, he had heard from the delegate of the United States the argument that the addition of Articles 26, 27 and 28 would have no practical effect for two years. In actual fact, Article 26 provided for the maximum period of two years, but steps were to be taken "as early as practicable" to give effect to its provisions. In principle, therefore, such practices were condemned as much as discrimination, dumping, etc. Concerning the legislative difficulties of certain governments, he thought it should be realized that the Brazilian Government also would have serious difficulties in explaining to its Parliament why no provisions to prevent export subsidies were included in the Agreement. He opposed the view that aggressive and predatory export subsidizing should be tolerated until the Charter comes into force, when other departures from normal commercial policies were banned. He agreed to the setting up of a Sub-Committee to consider whether Articles 26, 27 and 28 should be inserted in the General Agreement.

Mr. KREMER (Luxembourg) agreed to the point of view expressed by Mr. CASSIERS that this was not a question which could be answered simply in the affirmative or the negative and supported the setting up of a Sub-Committee.

Mr. SKAUG (Norway) preferred to see Part II of the Agreement replaced. However, substantial arguments had been heard on both sides and he thought the question should not be decided by vote. He therefore withdrew his proposal of total replacement but suggested that a Sub-Committee should examine the replacement of certain provisions: for instance, Article III by Article 18, and Article VIII by Article 36.

Mr. LEDDY (United States) thanked Mr. SKAUG for his spirit of compromise and, replying to Mr. CAMPOS, said that at Geneva there had been a basic understanding that the Agreement would not contain provisions for export subsidies which were to be left to the Charter. For that reason, Article XXIX referred to the replacement of "corresponding provisions". Should the Charter not come into force, Article XXIX provided the machinery for examination of the problem that would arise.

Mr. CAMPOS did not accept Mr. LEDDY's interpretation and said no commitment had been made at Geneva to shelve the question until the Charter came into force.

The CHAIRMAN expressed his pleasure with the very complete discussion and with the spirit of collaboration shown by the representatives which had narrowed the gap between positions which had at first appeared irreconcilable. He proposed to set up a Working Party with the following terms of reference: "To consider the specific proposals which have been made in the course of the debate on Items 4 and 5 of the Provisional Agenda in order to reconcile the different points of view which have been expressed, and to propose a solution to secure the agreement of the Contracting Parties; and to consider the means of giving effect to its proposals in order to facilitate signature of the necessary instrument at this session of the Contracting Parties."

Mr. LEDDY (United States) asked whether, in view of the withdrawal of the Canadian and Norwegian motions, the Working Party would consider the replacement of the whole of part II or only of certain parts.

The CHAIRMAN replied that the terms of reference embraced all the references made in the course of the debate and in spite of withdrawal of the Canadian and Norwegian motions there were still parties in favour of total replacement.

The proposal to set up a Working Party with the above terms of reference and composed of the following Contracting Parties was approved: Australia, Brazil, Canada, China, France, Norway, Syria, United Kingdom and the United States under the Chairmanship of Mr. Speekenbrink.

AMENDMENT OF ARTICLE XXIX

Mr. SPEEKENBRINK (Netherlands) said he thought it was important that paragraph 1, Article XXIX be amended and he suggested that the words "draft Charter" should be changed to "Havana Charter" in the Note on Article II paragraph 4 in Annex I.

Mr. NORVAL (South Africa) while agreeing to a modification of paragraph 1 of Article XXIX proposed the following wording: "...general Principles embodied in Chapters I to VI of the Havana Charter".

Mr. CAMPOS (Brazil) was in some doubt concerning paragraph 2 of the text proposed in GATT/CP.2/12. It was not yet known how much of the General Agreement would be superseded. The findings of the Working Party should be awaited. In any case the Brazilian Delegation reserved their position regarding the enumeration of the Articles because they intended to propose the addition of Articles 26, 27 and 28.

Mr. LEDDY (United States) agreed with Mr. SPEEKENBRINK and also with Mr. NORVAL regarding paragraph 2. He felt

some change was necessary. Regarding paragraph 4, he thought it would be wise to change the date of the meeting of the Contracting Parties, contemplated to take place in January, 1949. He suggested that the drafting of the Article should be entrusted to the Working Party.

Mr. AUGENTHALER (Czechoslovakia) agreed with paragraph 1 as proposed by Mr. Speeltonbrink and amended by Mr. Norval. He accepted the proposal that the findings of the Working Party be awaited before discussion of paragraph 2. He agreed to a change in date in paragraph 4 to September 1949, but he had some doubts about paragraph 6.

Mr. ADARKAR (India) asked whether paragraph 1 applied to the Contracting Parties individually or to the Contracting Parties acting jointly. He thought it meant both. Mr. Norval had proposed the addition of "general principles of Chapters I to VI", but the Indian Delegation did not understand why principles embodied in other Chapters should not also be considered. He did not agree with paragraph 3 because in his opinion, if a country were unable to subscribe to the Charter, this inability would not arise from any part of the Chapter corresponding to Part II. As regards paragraph 6, he thought complications could arise because the Charter was more extensive than the Agreement.

Mr. TONKIN (Australia) thought the amended version of Article XXIX was acceptable but he objected to the wording of paragraph 6, and therefore suggested that the Working Party should examine the Australian proposal contained in document GATT/1/21/Add.1.

Mr. SPEEKENBRINK in reply to Mr. ADARKAR, stated that the Netherlands Delegation considered for the purpose of paragraph 1 Article XXIX, the Contracting Parties were to be taken as acting separately, since the CONTRACTING PARTIES acting jointly had no executive authority. \*

The Meeting agreed to refer the proposals to amend Article XXIX to Working Party No. 3 and to amend the terms of reference of that Working Party accordingly.

\* ~~add the following new paragraph after the first paragraph:~~

"Mr. USMANI (Pakistan) opposed the argument advanced by the South African delegate that general principles were only involved in Chapters I to VI of the Charter. He could not agree with him that "General Exceptions" which occur outside these chapters were not based on any "principle".

