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GATT/CP.2/SR.9

ORIGINAL: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session

SUMMARY RECORD OF THE NINTH MEETING

Held at the Palais des Nations, Geneva

on August 23, 1948 at 10.00 a.m.

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

STATEMENTS ISSUED TO THE PRESS

Mr. NORVAL (South Africa) stated that he had been informed on the previous Saturday afternoon that a statement had been given to a press agency on the views expressed at meetings of the Contracting Parties on the status of the Protocol containing Article XXXV, but this statement did not correctly reflect the views of the South African Delegation.

The CHAIRMAN read rules 36 and 37 from the Rules of Procedure and then said that he considered that contacts with the press were the private affair of each delegation, but that if any delegation intended to issue an extensive statement on a subject being discussed at private meetings of the Contracting Parties it should first consult the Contracting Parties. Further, he said that if a statement had been given to the press reflecting views expressed at meetings without giving the South African opinion the South African representatives should then feel at liberty to issue their own statement.

Mr. ADARKAR (India) said that he did not know of any statement having been given to the press, but if this had occurred he agreed that the South African representatives should feel free to issue a reply.

Mr. NORVAL stated that he had been informed on good authority that a statement had been issued and that he intended to take an opportunity to issue another statement on the same subject.

DISTRIBUTION OF DOCUMENTS

The CHAIRMAN mentioned that certain statements had been handed to the Secretariat for distribution to the Contracting Parties and he asked that representatives should in future consult him when they had such requests to make and not to address their request direct to the Secretariat.

RESERVATION OF INDIA TO THE PROTOCOL OF PROVISIONAL APPLICATION

Mr. ADARKAR (India) drew attention to the annex to document GATT/CP.2/4 and explained that the statement under paragraph (a) to the effect that the Government of India withheld its consent under Article XXXV to the Agreement being applied between India and South Africa was in the nature of a declaration rather than a reservation. In explaining the withholding of the six tariff items listed under paragraph (b) from provisional application, he stated that these items were those in respect of which the Government of India had agreed to reductions in margins of preference without any commitment as regards the way in which the reductions were to be effected. Since the Government of India was free to increase the preferential rates of tariffs instead of reducing the most-favoured-nation rates, and since the constitution of India required the prior approval by its legislature for any increase in tariff rates, it had not been possible for the Government of India to include these items in the schedule to be put into provisional application. As soon as the necessary legislative procedure were completed, provisional effect would be given to these concessions.

Mr. LEDDY (United States) stated that his government, with whom the concessions in question had been negotiated, was prepared to accept the reservation on the understanding that legislation would be promoted by the government of India at the earliest possible moment.

The reservation was accepted unanimously by the Contracting Parties and Mr. ADARKAR expressed his appreciation. The CHAIRMAN stated that this decision would be recorded in the Summary Record of the meeting as follows:

The Contracting Parties, having voted that certain of the agreed tariff concessions in Schedule XII have not been given provisional effect for the reason that the approval of the Indian legislature is required, and having noted that the Government of India proposes to obtain this approval at the forthcoming session of the Indian Parliament, accept the reservation of the Government of India.

ARTICLE XVIII

The CHAIRMAN read paragraph 6 of Article XVIII and proposed to set up a working party to consider the lists of products affected by non-discriminatory measures notified under that paragraph and listed in GATT/CP.2/4/Add.2 and to submit recommendations to the Contracting Parties. With the approval of the meeting the CHAIRMAN appointed the representatives of Australia, Brazil, Cuba, France, Netherlands, Norway, the United Kingdom and the United States as members of Working Party 5. The nomination of Mr. SHACKLE (United Kingdom) as Chairman of the Working Party was approved. Members of the Working Party were reminded that Working Party 3 was studying the question of the replacement of Article XVIII.

Mr. SPEEKENBRINK (Netherlands) inquired whether he might discuss with the Working Party certain difficulties that had arisen with regard to existing legislation in the Netherlands Indies. Consent was given.

REPRINT OF THE AGREEMENT

The suggestion contained in GATT/CP.2/4 that the Articles of the Agreement and the Annexes might be reprinted as amended by the various protocols at Havana and at this Session was referred to Working Party 1.

REQUEST OF THE GOVERNMENT OF CHILE FOR AN EXTENSION OF TIME TO SIGN THE PROTOCOL OF PROVISIONAL APPLICATION.

The CHAIRMAN drew attention to the cable sent by the Government of Chile to inform the Executive Secretary of the Interim Commission that they were unable to sign the Protocol of Provisional Application by the closing date of 30 June 1948 (see document GATT/CP.2/5.)

At the invitation of the CHAIRMAN, Mr. Garcia OLDINI, observer for the Government of Chile, stated that there were many reasons for the request for extension. The Government of Chile would have liked to present to its Legislature not only the General Agreement but also the Havana Charter in order to avoid duplication of discussion and to make the two documents more comprehensible, but this could hardly be done with haste in view of the strong resistance the Government had encountered regarding these two documents. The Government of Chile had to convince numerous official and non-governmental organizations, as well as the various ministries interested in economic affairs. The strength of public opinion in Chile had already been referred to at the Havana Conference. Especially at a time when an internal crisis

necessitated a general increase of taxation, the talk of reduction of trade barriers had to be postponed for some more opportune time.

The Spanish text of the General Agreement, as well as the Charter, available at present was full of errors and often incomprehensible, and this had made the task even more difficult for the Chilean Government. The Chilean Government was prepared to work for international cooperation and to uphold the principles and purposes of the Agreement and the Charter, but it thought it inadvisable to promote legislation before its public opinion had been adequately educated on the merits of these documents.

Chile had preferential agreements with Argentina and other neighbouring countries like Bolivia and Peru. While Argentina had declined to sign the Final act at Havana, it was equally unknown whether the latter two would participate in the Organization. The decision at Havana regarding preferential treatment was not entirely satisfactory although it was an improvement on the draft prepared at Geneva; the economic autonomy that had to be abandoned upon acceding to the General Agreement appeared to be too precious to be given up lightly in the eyes of the various interested national organizations. In view of all these difficulties, his Government had requested the Contracting Parties to consider the possibility of its signing the Protocol at a later time under the same conditions as before the agreed date. As regards the three alternative means set forth by the Secretariat in document GATT/CP.2/5, his Government would prefer the first alternative which provided the best solution from a legal point of view. Should that be impossible in the absence of unanimous agreement, the third would be preferable.

Mr. MOBARAK (Lebanon) and Mr. DJEBBARA (Syria) both supported the Chilean request.

Mr. PHILLIPE (France) felt that the request of the Chilean Government could be complied with although he would not agree with the representative of Chile on certain parts of his statement. He also preferred the first solution and regarded the third as the next best. A time limit of six months should be fixed and the Government of Chile would be expected to notify its accession within that time.

Mr. GUTIERREZ (Cuba) also agreed to approve the request and was ready to vote for any of the three means which met with the approval of the majority.

Mr. LEDDY (United States) was in principle in favour of the extension of time requested by the Government of Chile. His delegation, however, was concerned with the questions of time and method of meeting the request. Equity demanded that the drastic measures taken by the other countries for their accession should be taken into account and a precedent should not be created to weaken the procedure by accepting the request without due consideration. He inquired whether the Chilean Government had proposed definite steps in regard to the legislation required and, if so, whether a time schedule had been set up for the purpose, and suggested that the Government of Chile should make preparations and put itself in a position to sign the Protocol. As regards the means of meeting the request, his delegation would prefer the first alternative.

Mr. OLDINI replied that the time limit of six months which his Government had requested had been chosen only after careful and exhaustive study. Three months would be needed

for securing the understanding and the agreement of the various national organizations referred to above and another three months would be consumed in the process of legislation which would involve a detailed study of the text of the General Agreement. This period of six months should commence with the time when the Spanish text of the General Agreement became available.

Mr. RODRIGUES (Brazil) supported the request and said that the first of the three methods was preferable.

Mr. TONKIN (Australia) also favoured the acceptance of the request and the first alternative. It was, however, inadvisable in his view to grant an indefinite extension, and it was too vague and uncertain to make no stipulation as regards the date on which the extended period of six months should begin.

Mr. WUNSZ KING (China), while not in agreement with some of the arguments put forward by the representative of Chile, was in favour of compliance with the request for the general reason that the Agreement was an experiment. Since such sympathetic consideration had been given to the requests of Pakistan, Ceylon and India, it would be only fitting that a similar attitude should be taken by the Contracting Parties on this occasion.

Mr. SHACKLE (United Kingdom) was in agreement with the majority of the representatives and favoured the first method. Extension for an indefinite period would be a dangerous precedent and he proposed that the request be accepted in principle and the matter should be brought up at the next session.

Government of the United Kingdom to postpone the provisional application in regard to that territory till there had been time to consider the matter. It was in order that Colonial dependencies might have the opportunity of forming their own views as to the desirability of their adhering to an international instrument that the United Kingdom had asked at Havana that paragraph 1 of Article 104 of the Charter should be given its present form, as against the provision in Article XXVI (4) of the General Agreement on Tariffs and Trade, under which dependencies automatically follow the metropolitan territory when it formally accepts the General Agreement."

The CHAIRMAN pointed out that under paragraph 2 of the Protocol of Provisional Application, no time limit had been fixed for the application of the Agreement to non-metropolitan territories.

Mr. OLDINI further explained that in view of the unforeseen circumstances in which the Spanish text had not been available until a much later date than had been expected, a six-months extension beginning 30 June would now appear to be insufficient and his government would require six months from the opening of this Session of the Contracting Parties.

Mr. AUGENTHALER (Czechoslovakia) thought it would be more appropriate to adopt the third alternative and to treat the Chilean request as an application to accede under Article XXXIII. Chile could be permitted to accede within a specified period without further negotiations or concessions being required.

Mr. SPEEKENBRINK (Netherlands) and Mr. MELANDER (Norway) agreed with Mr. AUGENTHALER and would like to see the third alternative adopted.

Mr. NICOL (New Zealand) questioned the possibility of reaching a unanimous decision as was required by the first means when one of the Contracting Parties was not represented at the present Session.

Mr. LEDDY suggested that the Government of Southern Rhodesia could be contacted for the unanimous decision required.

The CHAIRMAN, summing up, said that there were several representatives in favour of the first means of meeting the Chilean request and there were a few others who advocated the third alternative. He thought that the agreement arrived at at the meeting could either be recorded in the Summary Record or put in the form of a resolution to the effect that the Contracting Parties recognized that Chile had completed negotiations necessary for accession to the General Agreement and that its accession would be considered at the next session of the Contracting Parties.

With the approval of the meeting and the consent of the representative of Chile, the CHAIRMAN requested the representative of the United Kingdom to draft a resolution and to present it at the next meeting.

The meeting rose at 1.00 p.m.

