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ORIGINAL: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session

SUMMARY RECORD OF THE ELEVENTH MEETING

Held at the Palais des Nations, Geneva
on August 24, 1948, at 3.00 p.m.

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

ARTICLE XV - RELATIONS OF THE CONTRACTING PARTIES WITH THE
INTERNATIONAL MONETARY FUND

Mr. LEDDY (United States) introduced document GATT/CP.2/W.2 and explained the purpose of the proposed letter to be addressed by the Chairman of the Contracting Parties to the Managing Director of the Fund. He drew attention to the penultimate paragraph which constituted the operative part of the letter. In addition, he proposed an additional paragraph to provide for the obligation on the part of the Contracting Parties to co-operate with the Fund when requested in matters arising under the Articles of Agreement of the Fund.

Mr. SAAD, speaking in his capacity as observer for the International Monetary Fund, welcomed the United States proposal and agreed that arrangements should be made for co-operation and that such arrangements should be of an informal and temporary nature.

Taking into consideration certain comments put forward by Mr. SHACKLE (United Kingdom) on the wording of the letter, it was agreed that a letter along the lines of the United States draft should be sent to the Managing Director of the Fund.

SPECIAL EXCHANGE AGREEMENTS BETWEEN THE CONTRACTING PARTIES
AND NON-FUND-MEMBERS

The CHAIRMAN pointed out that there were four Contracting Parties which were not Members of the Fund, namely, Burma, Ceylon, New Zealand and Pakistan.

Mr. LEDDY (United States) proposed the setting up of a Working Party for consultation with the Fund. This Working Party should report back to the Contracting Parties at the Third Session on the time limit that should be set for Contracting Parties which are not members of the Fund to join the Fund or conclude special exchange agreements with the Contracting Parties and to draft a suitable Exchange Agreement in accordance with Article XV. He suggested that the Working Party should meet at Washington.

Mr. NICOL (New Zealand) and Mr. SHACKLE (United Kingdom) said that they personally were not opposed to this proposal, but they were not in a position to express a definite opinion in the absence of instructions.

The proposal being adopted, the CHAIRMAN appointed, with the approval of the meeting, Belgium, Burma, Ceylon, France, New Zealand, Pakistan, United Kingdom and the United States to form the Committee on Special Exchange Agreements with the following terms of reference:

"To examine the problem of Special Exchange Agreements between the CONTRACTING PARTIES and those contracting parties which are not members of the International Monetary Fund, and, in consultation with the Fund, make recommendations to the CONTRACTING PARTIES with respect to:

- (1) the time within which those contracting parties should become members of the Fund or, failing that, enter into special exchange agreements with the CONTRACTING PARTIES, and
- (2) the terms of a suitable exchange agreement under Article XV, and to circulate draft agreement to the contracting parties one month before the Third Session."

It was agreed that the Chairman should convene the first meeting of the Committee in Washington. The Chairman of the Committee would be elected at that meeting.

RULING ON ARTICLE I, PARAGRAPH 1, REQUESTED BY PAKISTAN

Mr. HASNIE (Pakistan) said that in the opinion of his government India had failed in certain respects to treat Pakistan according to the principles of non-discrimination embodied in paragraph 1 of Article I of the Agreement. Excise duties levied in India on a number of commodities, such as tobacco, tea and sugar, were refunded when exported to all countries, with the exception of one, namely, Pakistan. As a result, Pakistan had to obtain these commodities at a price much higher than other countries. In particular, this discriminatory treatment in respect of sugar had driven Pakistan to look for its supplies from Cuba, which had to be paid for in a hard currency. Financially, the withholding of excise duties by India, which should have been refunded, was costing Pakistan from 60 to 70 million rupees per annum. Economically it had hampered the development of Pakistan since the ensuing high costs of raw materials had made the establishment of new industries unprofitable. Politically, the patience shown by the Pakistan Government in dealing with this matter had exposed it to public accusation of inertia. The Indian Government had never replied to the representations of the Pakistan Government in an unequivocal way and the delay on the part of the Indian Government to take action had made the situation even more difficult. Therefore his Government saw no alternative but to submit the question to the Contracting Parties for a ruling. Legal opinion had assured his Government that the discriminatory treatment accorded his

country by the Indian Government constituted a breach of the principles of Article I.

Mr. ADARKAR (India) replied that the economic development of eastern countries had always been the main concern of India and a policy of collaboration had been pursued as far as possible. As this issue had not been included in the provisional agenda he was unable to reply in the absence of instructions from his Government. The partition had created so many problems of such complexity and magnitude that it was futile to deal with any question arising therefrom without first ascertaining the facts and backgrounds. Under Article XXIII of the General Agreement, a difference could be brought to the attention of the Contracting Parties if the reply to a written representation were unreasonably delayed. In his opinion, the question should be settled by direct negotiation between the two countries.

The CHAIRMAN ruled that this was not a dispute between two Contracting Parties but merely a request by one Contracting Party for an interpretation of paragraph 1 of Article I. He pointed out that the provisions of paragraph 1 of Article I were very broad and the first part of the paragraph indicated the scope of most-favoured-nation treatment. Then there was the last part of the paragraph which he would paraphrase as follows: "Any advantage, favour, privilege or immunity granted with respect to internal taxes by any contracting party to any product destined for any other country shall be accorded immediately and unconditionally to the like product destined for the territories of all other contracting parties."

Mr. ADARKAR reserved the position of the Indian

Delegation pending instructions from his Government. He was unable to make any commitment either regarding the facts given by the Representative of Pakistan or regarding the interpretation made by the Chairman.

The CHAIRMAN hoped that the two representatives would discuss the matter and reach an understanding. Mr. HASNIE thanked the CHAIRMAN for the ruling.

The meeting adjourned at 5 p.m. and resumed at 5.30 p.m.

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

Mr. SHACKLE, in presenting the resolution which he had been requested to draft (document GATT/CP.2/W.8), explained that he had thought of drafting the resolution in such a way as to provide that sympathetic consideration would be given to the Government of Chile when it had decided to adhere to the Protocol, but the representative for Chile had said that mere sympathetic consideration was inadequate. He had therefore redrafted the resolution along different lines to indicate that the Government of Chile would become a Contracting Party upon its notification to the Contracting Parties in pursuance of Article XXXIII. The introduction of the date 16 February 1949 was made to meet the request of Chile at the previous meeting. He also suggested a few changes in the circulated draft resolution.

Mr. OLDINI, speaking as Observer for the Government of Chile, thanked Mr. SHACKLE for having drafted the resolution, and was in general agreement with its contents.

Mr. STINEBOWER (United States) thought it was doubtful whether reference should be made to Article XXXIII which related to the final accession to the Agreement. The question

of provisional application of the Agreement did not seem to be covered by that Article. Secondly, it might be advisable to mention in the resolution that when the Government of Chile signed the Protocol of Provisional Application the signature would cover all protocols that had been adopted prior to the time of the adherence. He was unable to take final decision on the change from June 30 to August 16 as the commencing date of the six-months' extension though he was not personally in disagreement with the resolution as it was drafted.

Mr. SHACKLE said that he had referred the matter to legal experts and it had been their opinion that Article XXXIII was also covered by the Protocol of Provisional Application; that is to say, the provisions regarding accession could also be applied provisionally.

Mr. STINEBOWER suggested that the draft resolution should be referred to Working Party 3 for further study.

Mr. RODRIGUES (Brazil) wondered why such a difficult resolution was needed when the Protocol of Provisional Application was an autonomous document and changes in its provisions could be easily made by agreement. He thought no resolution was necessary as no changes of substance in the General Agreement itself were contemplated.

Mr. NORVAL (South Africa) agreed with Mr. STINEBOWER that matters relating to provisional application were not covered by Article XXXIII which dealt with final accession to the General Agreement. He agreed to the extension in principle and was in favour of submitting the draft resolution to the Working Party.

It was agreed that the question should be referred to the Legal Working Party of Working Party 3.

Mr. SHACKLE recalled the interpretation given by the CHAIRMAN on the previous day regarding the position of Jamaica in respect of the Protocol of Provisional Application and would like to have it placed on record that Jamaica would have the right to adhere to the Protocol of Provisional Application when the Government of the United Kingdom should so decide. The CHAIRMAN re-read paragraph 2 of the Protocol and gave his opinion that, since Jamaica was not an autonomous territory capable of becoming a Contracting Party under the provisions of paragraph 4 of the Protocol, there would be no obstacle to the provisional application of the Agreement in respect of Jamaica should the Government of the United Kingdom decide at any time to make it so applicable. He asked the meeting whether there was any disagreement with this interpretation, and there was none.

REQUEST OF THE NETHERLANDS GOVERNMENT REGARDING CONSULAR TAXES IMPOSED BY THE CUBAN GOVERNMENT

Mr. SPEEKENBRINK (Netherlands), referring to the communication contained in Document GATT/CP.2/9, requested the CHAIRMAN for a ruling on the application of Article I of the General Agreement. The question was whether the phrase "charges of any kind" was meant to include consular fees, which were mentioned also in Article VIII.

Mr. AUGENTHALER (Czechoslovakia) thought that interpretation would be useful to all Contracting Parties.

The CHAIRMAN ruled that consular taxes would be included in "charges of any kind"; Article VIII merely dealt with the magnitude of such taxes in relation to the cost of services rendered, whereas Article I embodied the principle of non-discrimination.

Mr. DJEBBARA (Syria) thought it should be indicated

explicitly that the provisions of Article I had no bearing on the amount or rate of a consular tax that could be levied.

The CHAIRMAN pointed out that since consular taxes were covered by Article VIII it was clear that the level of such taxes should be regulated by the provisions of that Article. The meeting agreed with the interpretation given by the CHAIRMAN, who then said that the question raised by the Netherlands representative should be taken up again with the Government of Cuba.

BRAZILIAN REQUEST FOR WITHDRAWAL OF CONCESSIONS

Mr. RODRIGUES (Brazil) said that the request of the Brazilian Government would be more appropriately regarded as one for adjustments of tariff concessions rather than for withdrawal of concessions. The request, circulated as document GATT/CP.2/W.9, was self-explanatory. It was imperative that the concessions on the three tariff items should be reconsidered and the Brazilian Government had preferred to bring this question to the Second Session of the Contracting Parties instead of invoking Article XIX to which it was entitled to resort in the present circumstances. It should be understood that the additional concessions offered were to be temporary and subject to review during the proposed renegotiation.

Mr. LEDDY (United States) said that it was difficult for him to see how Article XIX could be invoked in this case since there had been no evidence of serious damage, which was a requisite for the application of that Article. Since some kind of action must be taken, it was for the Contracting Parties to consider whether Brazil should be granted a waiver without further consideration, whether negotiations should take place for compensating items, or whether the new

concessions offered by Brazil should be taken as enough compensation justifying a temporary waiver of concessions on the three items mentioned by Brazil pending further negotiations at the next session or next April. His delegation could not make any definite commitments and would have to refer to Washington.

Mr. SHACKLE (United Kingdom) said that his delegation was in the same position. As for the negotiation for compensating items, his delegation was not equipped to take up such a task. If the last alternative mentioned by the delegate of the United States was acceptable to the Contracting Parties he would be prepared to communicate with his Government to recommend a temporary waiver being given pending the outcome of the renegotiations contemplated at this session.

Mr. RODRIGUES contended that the threat of danger to the Brazilian economy had been real and imminent. He had been instructed that in case the request were not favourably considered by the Contracting Parties, Brazil would have to withdraw its provisional application. He would accept the proposal of the representative of the United Kingdom and hoped that an agreement would be reached during this session.

The CHAIRMAN suggested that the last alternative put forward by the United States representative should be adopted so that the request would be complied with provisionally and the whole matter be reviewed at the next session or during the renegotiations which were to take place in Geneva in 1949.

Mr. SPEEKENBRINK (Netherlands), agreeing with the United Kingdom proposal, thought it might be convenient to set up a working party consisting of the representatives

of the United Kingdom, the United States and Brazil to give detailed consideration to the proposal.

Mr. GUTIERREZ (Cuba) gave notice that a statement on this subject would be made by him at the next meeting.

The meeting rose at 7.30 p.m.

