

GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session

SUMMARY RECORD OF THE NINETEENTH MEETING

Held at the Palais des Nations, Geneva,  
on 6 September 1948, at 3 p.m.

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

The CHAIRMAN paid tribute to the late Dr. Edouard BENES, former President Czechoslovakia; whose death had been announced since the last meeting. In honour of the late President, the representatives arose and observed one minute's silence.

Mr. AUGENTHALER (Czechoslovakia) thanked the representatives for their sentiments and sympathy.

REPORT OF WORKING PARTY ON THE REQUEST OF PAKISTAN (GATT/CP.2/25)

At the request of Mr. ADARKAR (India), Chairman of the Working Party, Mr. HAIGHT (Secretariat) who had acted as Chairman of the Working Party during the discussion on the request of Pakistan when Mr. ADARKAR wished to vacate the chair in order to present the views of his Government, introduced the Report and outlined the proceedings of the Working Party in dealing with this request. The Working Party had taken notice of the fact that the request had been received with sympathy by the contracting parties at the plenary meeting. One of the four countries concerned was prepared to enter into negotiations with Pakistan immediately, and the other three had said they would require more time to prepare for the negotiations. It was hoped that these negotiations would be completed before the commencement of the multilateral negotiations. Pakistan

has also recognised the interests of other countries which might be vitally concerned with the outcome of the negotiations between Pakistan and the four countries. It was envisaged that the amendments to the Pakistan and perhaps Schedules resulting from the negotiations might be put into effect prior to the third session of the Contracting Parties; the results of each negotiation would be reported to the Chairman who would inform all contracting parties, but if any objection should be received by the Chairman, within the time limit of thirty days provided in the procedure recommended in paragraph 8 of the Report, the proposed adjustment would be referred to the third session. As to the purpose of the negotiations and the grounds on which the request was made, the Governments of Pakistan and India each believed that the partition of India had caused a lack of balance in the concessions exchanged during the negotiations in 1947, except that the latter Government had not regarded the matter as serious enough to warrant action before the tariffs were open for reconsideration in 1951 in terms of Article XXVIII.

Mr. ISMAIL (Pakistan) thanked those who had partaken in the work of the Working Party for their sympathetic consideration, and drew attention to the salient points in paragraph 3 and 5 of the Report. He proposed to amend the last two lines in paragraph 3 to read as follows: "accepted the negotiations which have been conducted in the beginning by the Government of undivided India and later by the present Government of India on behalf of the Government of Pakistan", and added that the representative of India had agreed to this change.

Mr. ADARKAR (India) proposed to delete the word "necessarily" towards the end of paragraph 5.

Mr. LEDDY (United States) proposed to add the words "United States" before the word "tariff" in the last line but one of paragraph 6.

These proposals were approved.

Mr. AUGENTHALER (Czechoslovakia) said that his Government was considering compliance with the Pakistan request without insisting upon negotiations and he therefore enquired what procedure would be followed in the event that he should be able to announce such a decision before the end of the present session.

The CHAIRMAN replied that the notification of compliance with the request should be sent to the Secretariat and all contracting parties would then be informed. The change in the Schedule could be brought into effect if all contracting parties agreed to it.

Mr. CASSIERS (Belgium) asked why other items in the Pakistan Schedule should be involved in the negotiations as was envisaged in the procedure recommended in paragraph 8. He thought there was no need to mention the schedule of Pakistan because it was not contemplated that there might be increases of tariffs on any item other than the six in respect of which the request had been considered.

Mr. ADARKAR (India) stated that in referring to other items the Working Party had in mind the possibility of other items being substituted for any of the six. The purpose of the Pakistan request was to redress the disadvantageous position resulting from the concessions exchanged at Geneva in 1947. The six items mentioned by the Pakistan delegation for this purpose might not all be of value to the contracting parties concerned. Since it was possible that some contracting parties might suggest the withdrawal of other

concessions instead of those proposed by Pakistan the Working Party had thought it desirable not to preclude other items from being considered and negotiated upon.

Mr. CASSIERS (Belgium) stated that though his Government had no direct interest in the matter he could not help feeling that the sentence was somewhat ambiguous.

Mr. ISMAIL (Pakistan) had no objection either to the retention or the deletion of the sentence. He emphasized however that in the view of his Government the balance of concessions would not be impaired by the withdrawal of the six items.

The procedure recommended by the Working Party and the Report were unanimously approved.

REPORT OF WORKING PARTY ON THE UNITED STATES' PROPOSAL  
RELATING TO WESTERN GERMANY

Mr. GUTIERREZ (Cuba) presented the report and gave an account of proceedings of the Working Party. Particular attention was drawn to paragraph 6 in which it was stated that the Working Party did not suggest that the draft Agreement on most-favoured-nation treatment for areas of Western Germany submitted by the Working Party should be formally approved and was submitted merely because it was thought that many contracting parties which were interested in the matter would find the Agreement acceptable to them. He moved that the Contracting Parties take note of the Report.

The CHAIRMAN emphasized that the Agreement was attached to the Report merely for purposes of record.

Mr. AUGENTHALER (Czechoslovakia) made a statement on the report in which he said that in accordance with point 14 of the Potsdam Agreement, Germany was to be treated for the duration of the occupation as a single economic unit and

policies with regard to imports, exports and customs were expressly mentioned in that Agreement. The draft Agreement submitted by the Working Party was contrary to the existing international agreements and might create a situation prejudicial to the final solution of the problem of Germany and specially to its unity. For this reason, the Czechoslovakian delegation considered the draft Agreement illegal, and any approval, decision or recommendation would be beyond the competence and authority of the CONTRACTING PARTIES. It was also the opinion of the Czechoslovakian delegation that any recommendations to countries regarding the settlement of their relations with Germany or parts of it would constitute an interference with their domestic policy contrary to the general principles of international law and to the relevant provisions of the Charter of the United Nations. For all these reasons the Government of Czechoslovakia would never consider itself bound by any approval, decision or recommendation of the CONTRACTING PARTIES on this subject.

Mr. SHACKLE (United Kingdom) suggested to substitute the words "any rights or obligations" for "the rights and obligations" in the third line of Article IV of the draft Agreement.

This was agreed to.

Mr. FLETCHER (Australia) stated that, in accordance with the views of the Australian Government, he objected to any consideration being given by the Contracting Parties to the proposed agreement. The views of the Australian delegation referred to in paragraph 4 of the Report were as valid now as when they were presented to the Working Party. Though the independence of this agreement was specifically stated in paragraph 12, Article IV of the General Agreement

should be submitted to the Contracting Parties for consideration. It was the view of his delegation that the CONTRACTING PARTIES were not a body or an authority to deal with this particular matter, notwithstanding the provisions of the Final Note to the General Agreement for the matter to be discussed by the CONTRACTING PARTIES. Any decision that might be taken would create a precedent which would cause embarrassment to the Australian Government in respect to any similar arrangement proposed in respect to Japan and similar difficulties might be encountered by other Governments interested in the same question. He suggested that the United States Government should approach independently the countries concerned and secure their consent to an Agreement of this nature rather than request the CONTRACTING PARTIES to associate themselves with and place on record an irrelevant instrument.

Mr. WUNSZ KING (China) wished the following statement which he had made in the Working Party be taken note of and be reproduced in the Summary Record of the meeting. The "Chinese Government did not wish any agreement that might be signed in respect to Western Germany to be accepted as a precedent to be applied later to the trade of Japan".

Mr. NICOL (New Zealand) suggested that those countries which were interested in this agreement might arrange for discussions to take place outside the meetings of the CONTRACTING PARTIES, since the whole matter seemed to have nothing to do with the CONTRACTING PARTIES.

Mr. ADARKAR (India) stated that he would submit the draft agreement to his Government and believed that it would receive sympathetic consideration. He asked whether the last five lines in Article III of the draft agreement, beginning with "without prejudice ...." simply meant

"subject to negotiations in accordance with the principles of Article 17 of the Havana Charter and in conformity with the established procedure for tariff negotiations", as was indicated in paragraph 11 of the report.

Mr. AUGENTHALER thought that a detailed consideration of the draft Agreement was entirely out of order, the CONTRACTING PARTIES having been requested merely to take note of the Report.

The CHAIRMAN referred to the provisional Agenda which had been officially adopted by the CONTRACTING PARTIES and to the fact that general consent was given by the contracting parties at the 12th Meeting to examine the question further. The setting up of a Working Party and its terms of reference had both been approved at that meeting. Now that the Working Party had presented its Report, it was fitting that the Contracting Parties shall give their attention to the labour of that designated group and approve the document it presented, for purposes of record.

Mr. LEDDY (United States) in reply to the representative of India, said that Article III was so drafted as not to lay obligations on the occupying authorities, but to enable any signatories of the Agreement to apply the principle of the Havana Charter relating to the reduction of tariffs, by withholding most-favoured-nation treatment in the event of failure of an occupied area to negotiate.

Mr. AUGENTHALER objected again to the continuation of discussions; since the General Agreement was not meant to be applied to the German zones, the CONTRACTING PARTIES, in his opinion, were under no obligation to give any consideration to such an agreement.

In reply to Mr. MOBARAK (Lebanon), the CHAIRMAN said that the Agreement would not be attached to the General Agreement as an Annex and would be omitted completely from any reprint of the General Agreement and its related documents.

Mr. NICOL suggested that the United States Government could approach his Government in Wellington through the ordinary diplomatic channels and assured the representative of the United States of a prompt reply.

Mr. LECUYER (France) questioned the appropriateness of the reference to "many of the contracting parties" in paragraph 6. In order that approval should not be misconstrued as meaning general agreement by the contracting parties to the terms of the draft agreement, he proposed to delete all references to the CONTRACTING PARTIES from paragraph 6 of the Report.

Mr. WUNSZ KING (China) thought there would be no difficulty for the contracting parties to approve the text of any agreement if to approve meant to authenticate the text. If there were many contracting parties who were prepared to accept the Agreement, they were at liberty to contact the Secretariat for signing it.

Mr. SHACKLE suggested to change the second sentence of paragraph 6 to read: "In submitting to the representatives of the Governments represented at the meeting of the Contracting Parties the Draft Agreement ... etc."

Mr. LEDDY, in reply to the representatives of France and China, said that the Working Party was seeking approval for its report, and the report, being submitted by one of the Working Parties, should be considered by the CONTRACTING PARTIES as such. The substance of the draft agreement



attached to the Report was not submitted for acceptance by the Contracting Parties, as was specifically made clear in paragraph 6 of the Report.

Mr. AUGENTHALER said that the Contracting Parties could at the most take note of the existence of the Report or the fact that a report had been submitted and, having taken such note, should resolve not to raise the question again.

The CHAIRMAN proposed the following resolution:

"The CONTRACTING PARTIES approve the conclusions reached by Working Party No. 6 on the United States Proposal Relating to Western Germany and take note of the Working Parties report."

Mr. WUNSZ KING proposed that the following sentence should be included in the resolution:

"and consider that the Final Note contained in Annex I to the General Agreement on Tariffs and Trade has been acted upon."

Mr. LEDDY said that the draft agreement embodied far less than his Government would have wished. An agreement of such limited scope should not be regarded as one which had fully dealt with the question of the application of the General Agreement to trade with the areas under military occupation, and should not be taken to prevent future discussion under the Final Note. He requested that the two proposals be voted upon separately.

The CHAIRMAN, referring to Rules 24 and 26 of the Rules of Procedure, said that the Chinese proposal could be voted upon separately before a vote was taken upon the original proposal.

Mr. LAMSVELT (Netherlands) pointed out that the Final Note covered the applicability of the General Agreement to

trade with all areas under military occupation, and therefore the disposal of the Western Germany question should not be regarded as the disposal of the Final Note.

After some discussion, Mr. WUNSZ KING withdrew his proposal but stated that as early as December 1947 discussion on the question of such applicability had taken place at Havana. The "further study at an early date", required by the Final Note, had therefore taken place a long time ago, the outcome of which had crystallized in a compromise embodied in paragraph 5 of Article 71 of the Havana Charter. He wished that this statement be duly recorded.

The original proposal as re-worded by the Chairman was voted upon and was approved by 15 votes to none.

At the suggestion of Mr. COUILLARD (Canada), certain paragraphs of the Report were taken to be interpretative notes to the draft agreement. The suggestion was made on the grounds that the contents of these paragraphs had value in interpreting the articles of our agreement.

PROTOCOL OF RECTIFICATIONS TO THE GENERAL AGREEMENT  
(GATT/CP.2/30)

The CHAIRMAN drew attention to the second draft of the protocol, and stated that the items contained therein had been taken up by the representative of the Union of South Africa and the United States with the representatives of the Governments with which the items had been initially negotiated and the proposed alternatives had been agreed upon.

The typographical errors were detected in the draft and were rectified.

The CHAIRMAN requested the contracting parties to notify the Secretariat before 6 p.m. on Wednesday 8 September if they had any objections to the rectifications proposed in