

RESTRICTED
LIMITED B

GATT/C.P.2/SR/20
7 September 1948

ORIGINAL: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session.

SUMMARY RECORD OF THE TWENTIETH MEETING

Held at the Palais des Nations, Geneva,

On Thursday September 7 1948 at 3 p.m.

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

MEETING OF THE COMMITTEE ON SPECIAL EXCHANGE AGREEMENTS

The CHAIRMAN referred to the Committee on Special Exchange Agreements which had been set up on August 24th, composed of the representatives of Belgium, Burma, Ceylon, France, New Zealand, Pakistan, the United Kingdom and the United States. (GATT. CP/2/SR.11)

He thought it would be desirable that the Committee take advantage of the presence in Geneva of representatives of the International Monetary Fund and meet the following morning to discuss future organizational arrangements.

Mr. SHUCKLE (United Kingdom) agreed to the Chairman's proposal and suggested that, as the contracting parties not members of the Fund, all belonged to the sterling Area (Burma, Ceylon, New Zealand and Pakistan), London be chosen as the seat of the Committee.

Mr. LEDDY (United States) said the proposal could be discussed by the Committee at its next meeting but suggested that discussions be not confined to organizational matters only.

The CHAIRMAN replied that the Committee could discuss any matter falling under its terms of reference. (GATT. CP.2/SR.11, page 2.)

Mr. NICOL (New Zealand) supported Mr. Shackle's proposal adding that competent officials of the New Zealand Government would be in London in October.

It was decided that the Committee on Special Exchange Agreements would meet on the following morning.

Drafting Changes to the Text of the Protocols modifying Provisions of the General Agreement. (GATT/ C.P.2/33 and GATT C.P.2/34.)

The CHAIRMAN submitted to the attention of the Contracting Parties the following drafting and formal alterations to the above protocol which it was thought desirable to incorporate in the texts which were being prepared by the Secretariat for signature.

Protocol modifying Part II and Article XXVI of the General Agreement.

1) The words : "referred to in paragraph 3" (paragraph 4 (c)) of the new text of Article XVIII - GATT C.P.2/34, page 6 - to be replaced by: "under Article II of this Agreement".

2) The words : "in conflict with the obligations" paragraph 13 of the same Article, to be replaced by the words: "relating to a product in respect of which the contracting parties have assumed an obligation".

3) The following new interpretative note to paragraph 3 of Article XVIII to be inserted:

"The clause referring to the increasing of a most-favoured nation rate in connection with a new preferential

agreement will only apply after the insertion in Article I of the new paragraph 3 by the entry into force of the amendment provided for in the Protocol Modifying Part I and Article XXIX of the General Agreement on Tariffs and Trade dated September 1948."

The new interpretative note was necessary because of the fact that the two protocols mentioned above would probably not enter into force at the same time. It was necessary to take this into account in making cross references from one protocol to another. This also applied to the two interpretative notes to the Protocol modifying Part I and Article XXIX.

Protocol modifying Part I and Article XXIX. (GATT/CP 2/34)

The proposed modifications were the following:

1) New interpretative note to be inserted as an additional interpretative note to paragraph 1 of Article I:

"The cross references in the paragraph immediately above and in paragraph 1 of Article I to paragraphs 2 and 4 of Article III shall only apply after Article III has been modified by the entry into force of the amendment provided for in the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade dated September 1948."

2) New interpretative note to paragraph 2 (a) of Article III: The cross-reference to paragraph 2 of Article III shall only apply after Article III has been modified by the entry into force of the amendment provided for in the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade dated September 1948."

Mr. AUGENTHALER (Czechoslovakia) said he was not in a position to judge the importance of these amendments and would appreciate their being circulated before taking a decision.

The CHAIRMAN suggested the circulation by the Secretariat of the texts of the protocols as they would be prepared for signature so that the Contracting Parties might examine them and point out any typographical errors.

The proposal was accepted.

Report of Working Party No. 3 on modifications to the General Agreement. (GATT/CP.2/22 Rev.1) Brazilian proposal for Insertion in the General Agreement of Articles 26 - 27 - 28 of the Havana Charter.

The CHAIRMAN proposed the discussion of paragraph 24 of the above Report.

Mr. CAMPOS (Brazil) wished to explain his country's position. The importance attached by Brazil to the subsidization of exports was linked with its sharp development of cotton exports dating from the time when the fall of coffee exports had made it imperative to find another cash crop to cover the wide gap in its balance of payments.

Some satisfaction had been derived when U.S. representatives had admitted the illegitimacy of export subsidization, and this principle had been generally accepted in Geneva and Havana, although many Brazilians felt that too mild a compromise formula had been embodied in the Charter.

He wished to repeat that he saw no reason why of all major departures from normal trade policy, export subsidies should alone be left unrestricted and why some people, who had to abide by the rules of "fair play" should have no

defence against practices, such as export subsidization which, it was generally agreed, was unfair.

He wanted to make it quite clear that the Brazilian decision not to press the matter was only taken in view of the political difficulties to be encountered by some countries if the three articles were added, but Brazil would have to reserve its right to revert to the matter should it become clear that the Charter would not come into force at the time envisaged.

Mr. NICOL (New Zealand) said that his Government was of the opinion that Part II of the General Agreement should remain unaltered, but that, if any alterations were to be made, the Articles 26, 27 and 28 of the Charter should be added.

Mr. COUILLARD (Canada) agreed with the general lines of the statement of Mr. Campos; he also agreed that whereas it was in principle desirable to add Articles 26, 27 and 28 of the Charter to the General Agreement, it was best not to press the proposal, which could be taken up again at a more appropriate time. The Canadian Delegation further recognized the great importance of the sentence in paragraph 1 of Article XXIX of the General Agreement with which the Contracting Parties undertook "to observe to the fullest extent of their executive authority the general principles of the Charter".

Brazilian Request for Withdrawal of Concessions. (Schedule III (GATT/CP.2/W.11))

The CHAIRMAN referred to the proposal of the Delegations of Brazil, United Kingdom and United States, as set out in the above document.

Mr. LEDDY (United States) said the proposal was the result of long discussions between the parties concerned and that his Delegation had agreed to them with reluctance, but did not wish to create internal difficulties to the Brazilian Government.

Mr. AUGENTHALER (Czechoslovakia) asked why the similar case raised by the Government of Ceylon had been treated under Article XXIII whereas it was proposed to deal with the Brazilian request under Article XXV.

The CHAIRMAN explained that the difference lay in the fact that Ceylon had made reservations to its signature of the Protocol of Provisional Application whereas Brazil was making the request to the Contracting Parties to withdraw concessions.

Mr. LEDDY (United States) thought the case of Brazil was different because:

1) in the case of Brazil, the measures had not yet come into force:

2) Brazil had made no reservations to its signature of the Protocol for provisional application.

The Contracting Parties agreed to accept the proposal of the Delegations of Brazil, the United Kingdom and the United States that the decision of the Contracting Parties under Article XXV, as set out in the document mentioned above, be adopted, by 13 votes in favour and none against.

REPORT OF THE LEGAL WORKING PARTY UPON THE REQUEST OF
THE GOVERNMENT OF CHILE FOR AN EXTENSION OF TIME IN WHICH
TO SIGN THE PROTOCOL OF PROVISIONAL APPLICATION. (GATT/CP.2/29)

The CHAIRMAN informed the Contracting Parties that the Legal Working Party had submitted a draft Resolution and

Protocol. No date had been proposed for the time-limit to be granted to the Government of Chile for signing the Resolution and Protocol.

Mr. SHICKLE (United Kingdom) suggested that the date be fixed at six months from the beginning of the present session of the CONTRACTING PARTIES.

Mr. FRESQUET (Cuba) supported the proposal of the United Kingdom.

Mr. LEDDY (United States) said the date proposed would be acceptable to his Delegation. He would however propose that the Protocol and Resolution be only provisionally approved until the report of Working Party No. 5 on Article XVIII of the General Agreement had been considered by the CONTRACTING PARTIES. It appeared from the discussions in Working Party No. 5 that no concrete decision would be arrived at in the present session pending the availability of further information. Chile, which was not a member of the CONTRACTING PARTIES at this session, but would be probably at the next session, should be put in a position to provide information before the next session of the CONTRACTING PARTIES when a decision would be taken.

Mr. OLDINI (Observer Chile) thought this was a separate matter but, without wanting to influence the Contracting Parties, he said his Government would appreciate a decision being taken at this time.

Mr. DJEBARRA (Syria) said he could not exactly see relationship between the two questions. The signatories of the Geneva Final Act, including Chile which was not yet a contracting party, had presented a list of restrictions. It followed that the Government of Chile should also be asked to supply the information required by the CONTRACTING PARTIES

and be asked to present its explanations within the date which the CONTRACTING PARTIES could fix definitively.

Mr. SHACKLE (United Kingdom) said that the Working Party was likely to suggest that statements to the CONTRACTING PARTIES should be sent some time about the end of October, and that it was felt there would be advantages to examine the information submitted by all Governments, including the Government of Chile, at the same time.

The CHAIRMAN thought it might be necessary for the CONTRACTING PARTIES to give further consideration to the question of the date when the report of Working Party 5 would be examined, and proposed that the date of February 17th 1949 should be provisionally accepted.

Mr. RODRIGUEZ (Brazil) thought some discussion of the date would be useful. The CONTRACTING PARTIES should examine both the question of the date of accession and the date by which restrictive measures were to be notified. He made this suggestion because of a remark made by the Chilean Observer to the effect that until Chile became a contracting party they would not be bound to present information at an early date.

Mr. WUNSZ KING (China) asked whether countries which had juridical difficulties in signing the resolution and protocol might sign at some later date or "ad referendum".

The CHAIRMAN said the Protocol would not lend itself to signature "ad referendum". The Protocol would be deposited with the Secretary-General of the United Nations and remain open for signature. It was desirable that as many contracting parties as possible should sign at the end of this session.

The meeting agreed to fix the date before which Chile should sign the Resolution and Protocol at the 17th of February 1949, subject to a definitive decision to be taken by the CONTRACTING PARTIES when the Report of Working Party 5 had been examined.

The Resolution was provisionally approved.

The Protocol was then submitted for approval and Mr. STEYN (South Africa) made a statement to the effect that, as his Delegation read the proposed protocol, it applied Article XXXIII of the General Agreement in a modified form. The modification corresponded to a previous amendment, which it was thought to make to that Article by the modifying protocol executed at Havana, on March 24th of this year. The attitude of their Government to that amendment was well-known, and there was no need to go into that again, but he wanted to say, what his delegation's understanding of the draft protocol was in relation to that previous amendment, and possibly to other amendments in the same category.

As they saw it, signature of the proposed protocol by their Government would not imply recognition of the validity of the amendment to Article XXXIII, to which he had referred, or of any modifying protocol. All that the present protocol seemed to do was to apply ad hoc, to the particular case of Chile, certain provisions, similar to those contained in the other protocol, which his Government regarded as invalid. It seemed to him also that this protocol did so, in accordance with a procedure by which those provisions would, as between those who had accepted them, be validly applied in this particular case, by a separate independent instrument, properly executed in accordance with the provisions of

Article XXX. Acceptance of this instrument would, therefore, not postulate the validity of the modifying protocol which he had mentioned. He would appreciate it if the Chairman would have it recorded that that was their position, and that it would be open to our Government to sign this protocol with that understanding.

The CHAIRMAN confirmed that the views of the South African Delegation would be recorded and that it would be on that understanding that the Union of South Africa would sign the Protocol.

A discussion followed in which Mr. Augenthaler (Czechoslovakia) opposed the intention of asking the Secretary-General of the United Nations to register the Protocol on the grounds that it was not an international treaty and, further that he doubted whether all the Representatives had powers to sign such an instrument.

Mr. Luddy (United States) and Mr. Shackle (United Kingdom) supported the original proposal.

The Protocol was approved subject to the right of the Contracting Parties to return to the question when the Report of Working Party 5 had been examined.

The meeting rose at 5.45 p.m.