

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
LIMITED B
GATT/CP.5/SR.16
2nd December 1950
ORIGINAL: ENGLISH

CONTRACTING PARTIES
Fifth Session

SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at the Marine Spa, Torquay, England,
on Thursday, 30 November 1950 at 3 p.m.

Chairman: Mr. DI NOLA (Italy)

Subjects discussed:

1. Report of Working Party "F" on Amendment to Last Paragraph of Part II of Article XX (GATT/CP.5/32)
2. Report of Working Party "G" on Standard Practices for Trade and Exchange Controls (GATT/CP.5/30)
3. Item 11 of Agenda - Examination, under the Procedures provided in Article XXIII, of actual cases of Quantitative Restrictions applied for Protective Purposes.
4. Item 12 of Agenda - French Export Restrictions on Hides and Skins (GATT/CP.5/27).
5. De-restriction of the Decisions, Declarations and Resolutions of the Fourth Session, document GATT/CP/61 (GATT/CP.5/31)
6. Subsidies, notifications under Article XVI (GATT/CP.5/26)
7. Rectifications to Schedule II (Benelux).

In accordance with Rule 11 of the Rules of Procedure, Mr. DI NOLA (Italy) was unanimously elected Chairman for this meeting on the proposal of Mr. TONKIN (Australia) supported by Mr. NURUL HUQ (Pakistan).

1. Report of Working Party "F" on the amendment of the last paragraph of Part II of Article XX (GATT/CP.5/32)

M. CASSINIS (Belgium) explained that the Working Party had concluded that a definitive decision could be reached only after detailed examination of the measures covered by sub-paragraphs (a) and (b) of Part II on the one hand and (c) on the other. It was for this reason that the Working Party had agreed on the provisional solution of a waiver until January 1, 1952 of the obligations contained in the last paragraph, so as to enable a more thorough examination at the next Session of the question of what extension, if any, should be made with respect to each of the three sub-paragraphs.

The CHAIRMAN pointed out that under the terms of Article XXV(5)(a) the proposed Resolution required approval by a two-thirds majority of the votes cast and that majority must comprise more than half the contracting parties, i.e., a minimum of seventeen.

Sir Stephen HOLMES (United Kingdom) thanked the Contracting Parties for giving such careful consideration to the proposal made by his Delegation and that of Norway. He could not say that the solution was entirely satisfactory to his Delegation, which would have preferred a definitive settlement at this session along the lines suggested in the original proposal. Finally, he did not think that the question of a two-thirds majority should be included in the text of the draft resolution since the decision might in fact be unanimous.

The Report was approved.

After the deletion of those words "by a two-thirds majority", the Resolution was approved by a vote of 21 in favour and none against.

2. Report of Working Party "C" on standard practices for trade and exchange controls (GATT/CP.5/30)

Mr. STEYN (South Africa), introducing the Report, wished to emphasize that the Working Party had been covering new ground on which both the experience and information of the Contracting Parties were limited. The degree of uniformity and of standards which could be established was necessarily limited, owing to the divergence of administrative procedures in the various countries: if, however, the recommendations of the Working Party were approved, it would constitute a forward step in this field. He thought the Contracting Parties were much indebted to the United States for **suggesting** this item for the agenda.

The CHAIRMAN thanked the Working Party for a clear and carefully framed report and drew attention especially to the recommendations contained therein.

Mr. VON MALTZAN (Germany) said that his country welcomed the initiative taken by the United States in this matter. He wished to inform the Contracting Parties that the standards set forth by the Working Party had been successfully applied in Germany for some time and that constant efforts were being made to simplify administrative procedures.

Mr. Garcia OLDINI (Chile) questioned the use of the word "code" in paragraph 4 which seemed to him to suggest that the standards would have a certain obligatory character; this went beyond the recommendation contained in paragraph 3 (b).

Mr. STEYN (South Africa) explained that the word as used in paragraph 4 did not imply any obligation. He agreed that another wording might perhaps be found, but emphasized that if the standard practices were to be of any use, it was necessary that contracting parties should try to follow them so far as possible.

Mr. CASTRO MENEZES (Brazil) said that the delegation of Brazil agreed with the recommendation of the Working Party but, to avoid any misunderstanding, he wished to make the following remarks on the list of standard practices enumerated in the Annex.

Paragraph 2 of the Annex: The proof submitted to the control authorities must be based on the bills of lading for the merchandise which indicated a port or city in the importing country as the final destination: in the case of substantial payments it should be understood that such payment would have been effected after prior authorization by the exchange control office of the importing country: finally, his delegation understood that the irrevocable letter of credit referred to would have been issued after prior authorization by the authorities in the importing country.

Paragraph 3 of the Annex: His delegation understood that the orders covered by this paragraph would also have been previously submitted to the control authorities.

Paragraph 5 of the Annex: His delegation considered that the authority given to customs officials to grant reasonable tolerance for variations might be replaced by instructions having the same purpose but fixing the procedure and the limits of such tolerance.

M. CASSIERS (Belgium) referred to the objections to the word "code" in paragraph 4 and did not agree that its use in paragraph 4 would be more binding than in paragraph 3 (b).

Mr. BROWN (United States) thought much credit should go to the Working Party for an excellent report. Referring to the remark by the Brazilian delegate, he wondered if their points were not covered by the report, particularly by the last sentences of paragraphs 2 and 4.

Sir Stephen HOLMES (United Kingdom) agreed that the Working Party had produced a good report. The report might, however, have been even better if the proposal had been presented earlier and governments had thus had more time to study the question and make fully available the benefit of their experience.

Paragraphs 1 and 2 of the Report were approved.

The CHAIRMAN proposed considering the Annex before passing to paragraph 3 of the Report.

Paragraph 1 of the Annex was approved.

Paragraph 2 of the Annex Sir Stephen HOLMES (United Kingdom) considered that, with regard to new or intensified import restrictions, imposed to save foreign exchange, the principle that they should not apply to goods for which foreign exchange had already been transferred was quite correct. As far as export restrictions were concerned, however, the fact that goods had been paid for or covered by an irrevocable credit was not so conclusive. New export restrictions were usually imposed only as a result of some important necessity such as the danger of an acute shortage of the commodity in question in the exporting country, and it might be necessary, therefore, to refrain from licensing the export of the goods although there might remain the question of the refund of the price of such goods. Sir Stephen considered, however, that such cases were sufficiently covered by the qualifications "clear and overriding consideration" in paragraph 4 of the Working Party Report and did not wish to propose any amendment to paragraph 2 of the Annex. He merely wished this comment to be placed on the record.

Mr. JOHNSON (New Zealand) agreed with the United Kingdom representative.

Dr. CVEC (Czechoslovakia) considered that whether they related to exports or imports, restrictions were only imposed because of necessity. The purpose in establishing any standard practices was to avoid hardship to the commercial community, and for this reason he did not feel that a distinction should be drawn between import and export restrictions.

Sir Stephen HOLMES (United Kingdom), while believing that there was perhaps an inherent difference between import restrictions imposed in order to save foreign exchange and export restrictions arising out of an acute shortage of a particular commodity, did agree that hardship to the trading community might arise. He repeated that he did not propose any amendment to this paragraph.

Paragraph 2 of the Annex was approved.

Paragraphs 3, 4, 5, 6 and 7 of the Annex were approved.

Paragraph 8: Mr. BOESSEN (Norway) pointed out that there might be some difference between the reasonable tolerance as construed in this paragraph and the practice in his country.

Mr. NURUL HUQ (Pakistan) explained that in his country the export and import authorities were located at the port and had authority to allow deviations from the specified quantities or values. Customs officials took their orders from them.

The CHAIRMAN considered that both these points were covered in paragraph 4 of the report by the words "whenever possible".

Mr. STEYN (South Africa) said that the idea behind paragraph 8 was that the customs officials as distinct from the import authorities should have some discretion in authorizing minor variations.

Paragraphs 8 and 9 of the Annex were approved.

The Annex was approved as a whole and the Report was reverted to.

Paragraph 3 of the Report was approved with an alteration in the French text of sub-paragraph (b).

Paragraph 4 was approved with an alteration in the French translation of "code" and the substitution of the words "precise terms of these recommendations" for the words "letter of the standards".

Paragraph 5 was approved.

Paragraph 6: Mr. BROWN (United States) proposed that the report be derestricted earlier than would normally be the case and suggested the middle of December.

Mr. MACPHERLANE (Southern Rhodesia) and Mr. GARCIA OLDINI (Chile) pointed to the difficulty that would be experienced by small delegations of distant countries if their governments were to receive this Report as a public document before they had received the analysis and comments of their own delegations at Torquay. After some discussion, the date of 27 December was agreed on for publication of this report and it was agreed to delete the words "at the close of the session" in paragraph 6 and replace them by "on 27 December 1950".

The EXECUTIVE SECRETARY informed the meeting that the instructions contained in paragraph 6 involved the expenditure of funds by the Secretariat. The Contracting Parties, in view of their limited budget, had agreed that no proposal involving financial liability would be accepted without considering the budgetary implications. He wished to inform the Contracting Parties that it would be possible to carry out the instructions contained in paragraph 6 of this Report with the means presently at the disposal of the Secretariat. The fact that there was no investigation of the budgetary implications in this case should not, however, constitute a precedent for the future.

The CHAIRMAN said that the Contracting Parties would take note of this statement.

Paragraph 6 was approved, with the alteration in the date.

M. CASSIERS (Belgium) considered that the question of the publicity of the report concerned not only the Secretariat but delegations, and asked whether printed copies could be supplied to governments.

This was agreed and the Report as a whole was approved.

3. Item 11. - Examination, under the procedures provided in Article XXIII, of actual cases of quantitative restrictions applied for protective purposes.

M. CASSIERS (Belgium) requested that this item be postponed to a later meeting, as bilateral conversations were now taking place and it was hoped that the result of these conversations would enable the withdrawal of this item from the Agenda.

4. Item 12. - French Export Restrictions on Hides and Skins

Mr. BROWN (United States) referred to document GATT/CP.5/27 in which it was explained that as a result of discussions between the governments of France and the United States, his Government had decided not to press consideration of this item at this Session.

M. LECUYER (France) agreed with the United States Representative.

It was agreed to withdraw this item from the Agenda.

5. Derestriction of document GATT/CP.61 - Decisions, Declarations and Resolutions of the Fourth Session. (GATT/CP.5/31)

Mr. BROWN (United States) said that his delegation had received many enquiries as to the results of the Fourth Session and other governments had probably found themselves in a similar situation. It was for that reason that the derestriction of this document was proposed.

This was agreed.

6. Subsidies under Article XVI (GATT/CP.5/26)

The CHAIRMAN referred to document GATT/CP.5/26, in which were listed the countries which had sent reports on subsidies falling under the terms of Article XVI. The reports had not been submitted in a uniform manner, and certain countries had not replied at all. He suggested that this item be added to the Agenda, in order that consideration could be given to the question of action to be taken on this matter.

7. Rectifications to Schedule II - Benelux

The CHAIRMAN explained that he had been advised by the Benelux delegations that, after the devaluation in 1949, certain adjustments were considered in the specific duties in Schedule II in order to take account of the devaluation of the Dutch florin. These adjustments would affect 11 specific duties and 7 monopoly duties and would equalize the duties levied in florins and those levied in Belgian francs. The Benelux delegations had informed him that these specific duties, after the adjustment had been made, would be lower in dollars than the specific duties presently provided for in the Schedule. In order to expedite the work of the meeting, he proposed that this question be immediately referred to Working Party "B" on Schedules. The alterations would be distributed to all countries and any comments could be communicated direct to the Working Party.

Paragraph 6 (a) of Article II of the Agreement required that the Contracting Parties must concur that any adjustments of this nature would not impair the value of the concessions provided for in the schedules. This question might be examined when the Working Party had presented its report on the changes proposed by the Governments of Benelux.

This was approved.

The meeting adjourned at 7.00 p.m.

