

GENERAL AGREEMENT ON TARIFFS AND TRADE

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GATT/CP.5/SR.17
13 December 1950
ORIGINAL: ENGLISH

CONTRACTING PARTIES
Fifth Session

SUMMARY RECORD OF THE SEVENTEENTH MEETING

Held at the Marine Spa, Torquay, England,
on Thursday, December 7, 1950, at 3 p.m.

Chairman: Mr. TONKIN (Australia)

Subject discussed: Item 15 of the Agenda - Arrangements for the Continuing Administration of the General Agreement (GATT/CP.5/11)

In accordance with rule 11 of the Rules of Procedure, Mr. TONKIN (Australia) was unanimously elected Chairman for this meeting on the proposal of Mr. Di Nola (Italy), seconded by Mr. Brown (United States).

Item 15 - Arrangements for the Continuing Administration of the General Agreement (GATT/CP.5/11)

Mr. COUILLARD (Canada) introduced the proposal of his delegation concerning arrangements for the continuing administration of the General Agreement.

The main points of the Canadian proposal were contained in Document GATT/CP.5/11 which was issued on October 25 and which set out a number of arguments pointing to the advisability and need to make at this time arrangements for the continuing administration of the General Agreement. GATT had grown in the last three years into an important international instrument, and the only existing inter-governmental forum for the discussion of commercial policy questions on a world-wide basis. Membership had grown. There had also been, as could well be expected, a substantial increase in the number, variety, and complexity of the questions with which contracting parties had had to deal in the course of five Sessions. Much of the work done at these Sessions could have been quite properly done between Sessions by a Committee of governmental representatives, thereby reducing the length of the Sessions proper. There was a real danger that, as a result of increased activity, the periodic sessions of the CONTRACTING PARTIES would tend to be prolonged to a point where the efficiency in the administration of the Agreement would suffer and the high-level representation might be lost. Both developments would be unfortunate.

There was now the added consideration that the President of the United States, in submitting his legislative program to the next session of the United States Congress, had announced that the Havana Charter would not be submitted to Congress for approval at this time (see document CP/84). This decision naturally increased tremendously the importance of GATT as an international instrument in the commercial policy field. Up to now, the CONTRACTING PARTIES had assumed that the majority of the functions of GATT would be taken over by the International Trade Organization. It was now known that this would not happen at least for some time to come.

The Canadian Delegation, therefore, hoped that it was sufficiently clear that some Committee of the CONTRACTING PARTIES should be established to conduct the work of the CONTRACTING PARTIES on a continuous basis and that this question of principle would be decided at this Session.

Detailed questions such as the name of such a Committee, its terms of reference, rules of procedure, composition, and meeting place were all of course important. But they should be subordinated to and should not affect the question of principle, namely that some committee be set up. He suggested that an *ad hoc* Working Party be established at the conclusion of this discussion to consider such questions of detail as he had listed, and other relevant matters. He hoped that

this Working Party would make recommendations on these questions to the CONTRACTING PARTIES which could be acted upon by them before the conclusion of the present Session. In the event that this was not possible, his Delegation considered that the CONTRACTING PARTIES should at this Session agree on the question of principle, namely decide to establish an Executive Committee. The Contracting Parties could then at their next meeting examine and decide on the recommendations which the ad hoc Working Party would have made as a result of its deliberations here.

Mr. COULLARD wished to amplify briefly the Canadian views on a number of the questions to which he had alluded and to which the ad hoc Working Party might address itself.

- (a) The name to be given to the Committee: his Delegation suggested 'Executive Committee', but had no strong views. It would in fact be more descriptive to call it Continuing or Steering Committee.
- (b) Terms of reference of the proposed Steering Committee: the most important consideration involved was that the CONTRACTING PARTIES in plenary meeting would remain the sovereign organ of GATT. In other words, the CONTRACTING PARTIES would continue to retain the right of approval or disapproval of all actions of the Steering Committee. The CONTRACTING PARTIES would see fit to delegate certain duties to the Steering Committee to insure the more efficient operation of GATT. On the other hand, it should be made clear that the Steering Committee in the performance of the duties assigned to it by the CONTRACTING PARTIES would remain subordinated to the CONTRACTING PARTIES. The ad hoc Working Party might consider in greater detail the type of duties which could appropriately be assigned to the Steering Committee and on which the Steering Committee could either take action or make recommendations to the CONTRACTING PARTIES.
- (c) Composition of the Steering Committee: the Canadian Delegation had suggested that a Committee of twelve would be suitable. There was danger of establishing a Committee so large that its efficiency would be decreased, and also, as a result, the advantages which would accrue from its establishment. In the view of his Delegation, the Committee should be established on the basis of the principle contained in the Havana Charter with respect to representation on subsidiary bodies, namely that the composition of the Committee should be based - (i) on the relative importance of CONTRACTING PARTIES in international trade, and (ii) on the principle of equitable geographical distribution, bearing in mind the different types of economies and degrees of economic development to be found within the membership of GATT. A term of office of one year had been suggested but the CONTRACTING PARTIES might think it advisable to lengthen the term to two or three years.
- (d) Rules of procedure of the steering Committee: these also could be worked out by the suggested ad hoc Working Party. Clearly these rules of procedure would be subject to confirmation by the CONTRACTING PARTIES. The Steering Committee would meet as required. Notification of its meetings would be issued to all CONTRACTING PARTIES, whether or not they were members of the Steering Committee. Following the principle established in the Charter, any Contracting Party could attend and participate in the discussions of the Steering Committee.
- (e) Meeting place of the Committee: his Delegation would suggest that the place be chosen to meet the convenience of the majority of contracting parties and not only of those contracting parties which would be members of the Steering Committee. It would be unfortunate,

however, if discussions on the site should becloud the question of principle, namely the decision by the CONTRACTING PARTIES that a Steering Committee be set up.

It would also be unfortunate that there should not be raised at this time the question of Article XXIX, concerning the non-entry into force of the Havana Charter.

There were undoubtedly a number of other factors involved in this proposal to which other speakers would refer and the examination of all relevant factors would be the first responsibility of any working party set up to deal with the question of continuing administration. One more factor, however, was of sufficient importance to warrant attention by this meeting, although it might be too early at this stage to be able to discuss it in any detail. He referred to the need for some expansion of the existing Secretariat. There was a limit to the amount of work and responsibilities that could be shouldered by a group as small as the existing one, and he thought that the Executive Secretary would probably wish to make proposals on the question of expanding the Secretariat after he had taken note of the recommendations of the ad hoc Working Party which he hoped would be established to examine these matters.

Mr. BROWN (United States) said that his delegation welcomed the Canadian proposal. The scope of the General Agreement and the problems facing the Contracting Parties had extended themselves so that some kind of permanent organ was necessary. The need for a Committee such as proposed by the Canadian Delegation was further emphasised by the announcement which had been made the day before in Washington (and circulated as document GATT/CP/86), regarding the position of the United States government towards the Havana Charter. This announcement emphasised the importance the United States attached to the General Agreement and to methods of making it effective and workable. The United States delegation was in general accord with the various points made by the Canadian Delegation. He referred, among others, to the importance of maintaining the principle of the sovereignty of the Contracting Parties working as a group; the fact that decisions and consultations had occurred in meetings where all of the countries were represented was one reason why the Contracting Parties had been so effective. The suggestions regarding the composition of the Steering Committee and the principle that all contracting parties should be able to attend as observers and be heard were sound. Finally, it was time that the secretariat should become in fact the secretariat of the Contracting Parties. Many practical questions would arise on the functions and methods of the proposed Steering Committee, and he supported the suggestion that a Working Party be set up to examine the problems in detail. He suggested that it would be advisable for the Working Party first to examine the general character of the Committee, its nature, functions and composition, rather than to attempt to establish detailed terms of reference.

To summarize, the United States delegation felt that implementation of the Canadian proposal could only strengthen and benefit the General Agreement and Mr. BROWN hoped that the present discussion would result in some specific recommendations as to the kind of committee to be set up.

M. PHILIP (France) supported the Canadian proposal. Ratification of the Havana Charter seemed yet further delayed and in the interval the organization which existed and was operating should be given the means to work more effectively. He would insist above all on reinforcing the secretariat which must be given the means and the opportunity to do more preparatory work for meetings of the Contracting Parties. A financial problem might arise in this case. He also agreed as to the need for a permanent committee between sessions, although he wished it to be particularly clear that such a committee should not have the power to take any decisions. He envisaged the proposed committee rather as a permanent working party with general and continuous functions in the preparation of work for the sessions of the Contracting Parties, keeping contact among the contracting parties, conciliation, compilation of material for meetings, etc. He supported the suggestion to appoint a Working Party to study the question. Such a Working Party would not be able to arrive at any decisions before the end of this Session, but certainly at the 6th Session some action should be taken.

Mr. MACFARLANE (Southern Rhodesia), speaking generally and without wishing to refer to the details of the question, welcomed the Canadian proposal. He preferred a steering rather than executive committee, and thought that it would be most useful to have the work of regular sessions of the Contracting Parties reduced by preparatory work on the Agenda. Furthermore, if some Agenda items were fully discussed before sessions, it would be easier for small delegations to receive precise instructions and delays which had in the past occurred for lack of such instructions might thus be obviated. He was in favour of a maximum of 12 members but thought that membership, at least in the case of the smaller countries, should rotate annually. He supported the suggestion that ample notice should be given of meetings and that observers should be invited. In this connection, the meeting place should be convenient to observers as well as to the committee.

Mr. ARGYROPOULOS (Greece) warmly supported the Canadian proposal. It was particularly welcome at this time in view of the announcement by the United States. Such a committee would certainly make the General Agreement more efficient and reduce the length of Contracting Parties' meetings and the danger of a lowering in the standard of representation. He agreed with the French representative that the committee should not be termed an "Executive Committee" and proposed the title "Permanent Committee". Its function should be to prepare the work for the sessions of the Contracting Parties. Certain specific functions could also be assigned to it, as well as any questions left in suspense at the end of regular sessions or unsettled details.

Sir Stephen HOLMES (United Kingdom) said that his delegation had carefully studied the Canadian proposal and had originally felt that there was some merit in it. He agreed that the recent United States announcement added point to its consideration at this time. This announcement was very significant for the future of the Charter and the future of the Charter affected equally the General Agreement. It would perhaps be wise to postpone the approval of any report on this proposal by a working party set up at this Session to the following session in order to give governments time to consider the problem as a whole and also to take note of the progress in the legislative programme of the United States Congress. It would not have been difficult to approve in principle the Canadian proposal in so far as it related solely to some inter-sessional machinery for the General Agreement, when the Charter remained in the background. In the present circumstances where this machinery would relate to what might become a totally different type of General Agreement it was more difficult; it became necessary, therefore, carefully to examine the functions and characteristics of a Committee such as proposed by the Canadian delegation. Governments had hitherto tended to regard the Agreement as provisional and modest precursor of the major organisation as embodied in the Havana Charter. If the United States announcement foreshadowed the existence of the Agreement as a new and self-contained project, governments might wish to give careful attention to the provisions of the Agreement with its concentration on the narrow commercial policy aspects of international trade relations rather than on the wider field embracing employment, commodity and economic development policy which was contained in the Charter. The significance of the Agreement was no longer wholly clear and governments might wish to re-examine it with respect to its balance or lack of balance.

The Canadian proposal certainly warranted serious consideration. This should begin now, but delegations would probably be unable to indicate the attitude of their governments at this session. He referred to the names "Executive Committee" or "Steering Committee" which had been proposed and both of which seemed to him equally unsuitable; he preferred the term "Standing Committee".

To summarise, he supported the proposal of a working party to give preliminary consideration to this question, without reaching any firm decision at this session, and he was the less disposed to reach a hasty decision in the light of the new situation.

M. CASSIERS (Belgium) agreed that the United States announcement gave more point to the present discussion and that new instructions from governments

would be needed. Speaking as a delegate, he wished to say that whatever the fate of the Havana Charter, the General Agreement was at any rate in existence and it was apparent that it could not continue without some kind of permanent committee. The need for inter-sessional machinery had been felt since Annecy and he hoped that any study undertaken by a working party at this session would be pushed as far as possible in order to give governments some idea of the terms of reference, scope and duration of such a committee. He agreed with M. Philip that the committee so established could now only have functions of a general nature although these functions might alter at a later date. However, he feared too little initiative rather than too much and considered it essential that the committee and the Secretariat should be given sufficient initiative to watch over the application of the Agreement, to interpret the Agreement, to make investigations, and also to prepare and assist in the work for sessions of the Contracting Parties. He did not believe that sessions of the Contracting Parties could be materially shortened in any case, but they would at least be better prepared. He agreed that the Committee should have no authority to take decisions because decisions clearly rested with the Contracting Parties. If this principle were not adhered to there would be suspicion among contracting parties who were not members of the committee. In special cases, however, or in emergencies, the committee should have the power to make recommendations or take action of an interim character.

M. DI NOLA (Italy) agreed that the Canadian proposal came at an opportune time. It was necessary to reinforce the Contracting Parties, which were growing in importance and finding themselves faced with difficult problems. He agreed that the power of decision should rest with the Contracting Parties and that the committee should be a study group to prepare the work for sessions of the Contracting Parties. If this were not the case a profound modification in the structure of the Agreement would be involved. He favoured the establishment of a working party to consider the practical and detailed aspects of the problem. The Canadian proposal specifically included Articles XI to XIV and XVIII within the mandate of the Committee and reference might perhaps be made to other provisions. The Articles referred to had in common that they provided for consultations and enquiries before a decision could be arrived at, but that any decision was of course for the Contracting Parties to take. With regard to the question of site, he hoped the working party would give prior consideration to the present site of the Secretariat, particularly as many governments had permanent representatives in Geneva. He agreed that the Committee should be a small one and suggested that, in addition to the criteria set up by the Canadian delegation, countries with a special type of economy should also be represented. He supported the idea that any decision on this matter should be postponed to the next session.

Mr. TRONCOSO (Dominican Republic) said that his delegation welcomed the Canadian proposal. Arrangements for continuing administration were necessary not only because of the present number of contracting parties and the variety of problems before them, but also because of the probable accession of new countries. The Dominican Delegation would support the proposal for a standing committee and was gratified by the remarks of the Canadian representative which broadened the basis for the membership of the committee as set forth in the proposal submitted by his Delegation. It was important that in setting forth the criteria for membership in the Committee, due regard should be given to the different types of economies and degrees of economic development in the different countries.

Mr. FLEMO (Australia) said that the Contracting Parties were faced with an important decision made the more so by the United States announcement regarding the International Trade Organisation. The first reaction of his delegation had been to welcome the Canadian proposal, although they would want more time than allowed by this session to study it. He shared the views of other speakers as to the functions of the proposed committee. The principle that the Contracting Parties should preserve for themselves the right to take decisions was considered of great importance by the Australian government. The attitudes of the various governments would be affected by the exact functions of this Committee, which it was not possible at this stage to foresee, nor did

did he think that there was time at the present meeting to study the details of these functions. He suggested that it might be helpful for the Contracting Parties to decide now to set up an interim and temporary inter-sessional working party and in the light of its experience they could better judge the work such a Committee could perform. There might be certain items left over from this session and certain preparations for the 6th Session which could be referred to it.

Mr. AHMAD (Pakistan) supported the Canadian proposal in principle. There were of course many intricate matters of detail. He agreed with the principles set forth as to the composition of the committee, and the point made by the Italian representative should also be borne in mind. It was important that equal representation should be provided for the under-developed countries. The terms of reference would have to be carefully drafted so as not to detract from the sovereignty of the Contracting Parties, and there were other important matters to be considered together with the implications of the policy statement made by the United States. In view of this, he supported the United Kingdom suggestion that a Working Party be set up now to give the matter preliminary consideration but that no decision be taken until the 6th Session. In the interval before the opening date of the 6th Session, it should be open to contracting parties to submit any proposals which could then be studied at the 6th Session. He could not support the suggestion made by the Australian representative for an experimental inter-sessional committee to be set up now.

Mr. BORRESEN (Norway) was in favour of the proposed committee, which he thought would strengthen the Agreement and help to avoid long sessions of the Contracting Parties. He did not wish to go into details at this time but it seemed to him clear that, no matter what name was given to the Committee, the power of decision must always rest with the Contracting Parties. In any case, any committee that was set up should have sufficient initiative to be effective or its establishment would hardly be worth while. His Government was much interested in the United States statement and regretted the decision not to re-submit the Charter to Congress. His Government had indicated before the great importance it attached to the aims of the Charter. Since there seemed no immediate prospect of establishing the International Trade Organisation, the General Agreement should be strengthened by adding certain of the Charter Articles in the manner already suggested earlier at this Session by the Norwegian Delegation. He was willing to support the Canadian proposal but wished to make it clear that his government could not accept the General Agreement as a permanent arrangement in its present form.

Mr. BISHKOVY (Czechoslovakia) felt that the acceptance of the Canadian proposal would be a vote of distrust for the Executive Secretary and his staff. It was the Executive Secretary who was entrusted with the administration of the General Agreement, and anything that went beyond the limits of the administration of the Agreement would mean that the Contracting Parties were conferring some authority on a group of countries. The Contracting Parties, however, were not able to confer any authority, since they were neither a legal personality nor an international institution and had only the power to act jointly and in specific cases according to the provisions of the General Agreement. This was a multi-lateral agreement rather than a body that could establish other bodies, and even the inter-sessional procedures contained in document GATT/CP.3/30/Rev.1 gave no authority of any kind for the establishment of organs other than an ad hoc committee or working party. In conclusion, it was his opinion that delegations to the Contracting Parties could give approval to such a body as recommended by the Canadian Delegation only if authorised by their governments to do so. It was apparent that the United States was aware of this fact and they were dealing with the matter in the highest level. His Delegation had no authority to accept the Canadian proposal.

Mr. LEHTINEN (Finland) welcomed and supported the Canadian proposal, particularly in view of the United States statement. He supported the French representative and other speakers concerning the functions and composition of the

the proposed committee, and particularly the distribution of membership among the smaller nations.

Dr. LAHOFF (Germany) said that the Canadian proposal made no provision for acceding governments and suggested that for the latter half of 1951 one or two seats should be reserved for them. He attached great importance to the fact that contracting parties which were not members of the Committee should be granted the right to be represented by observers and proposed that they should be specifically invited to attend if items of substantial interest to them were being discussed. He was in general in favour of the Canadian proposal.

Mr. GUERRA (Cuba) was in favour in principle of the Canadian proposal, subject to certain qualifications, most of which had already been mentioned by other speakers. His delegation was well aware of the need for such a committee in view of the complicated nature of the Agreement and the problems before the Contracting Parties. The question of the powers that would be vested in such a committee was of particular importance, as was also the question of adequate representation on a geographical and economic development basis. There should be a clear distinction between the Secretariat of the Contracting Parties and the standing committee. No reflection was intended upon the staff of the Secretariat which would continue its administrative work as at present. The standing committee should be of the nature of a working party and take up any matters as they arose, discuss problems and make reports to the sessions. As to the question of powers, it was clear that the power of decision would remain with the Contracting Parties. Experience showed, however, that the recommendations made by a working party carried much weight when the matter was being discussed in the Contracting Parties, and even if full powers were not vested in the standing committee, it would in effect have great influence in determining the decisions of the Contracting Parties. Careful safeguards should be established, one of which should be the right of the countries whose problems were being dealt with to be present. It should be made clear that, in addition to the right all countries had to attend meetings as observers, the Committee would be obliged to invite any country materially interested in a discussion taking place. He called attention to Article 80, paragraph 4, of the Havana Charter, which provided that invitations should be issued to any member of the International Trade Organisation not a member of the Executive Board when any matter of particular and substantial concern to that member was being discussed. Because of the great weight carried by the recommendations of any working party, some such provision should be inserted concerning the proposed committee. With regard to the remark by the Czechoslovak representative, it was obvious that, in order to agree to the establishment of such a committee, authority from governments would be necessary. With regard to the Australian proposal concerning an experimental committee to be set up immediately, he agreed with the opposition of the delegate of Pakistan.

Mr. GARCIA OLIVERI (Chile) said that, when this proposal had been presented, his delegation had considered it with great care. The recent United States declaration of policy with regard to the Havana Charter had, however, completely altered the aspect of the matter. Until the present time, it had been the fundamental care of delegations to safeguard the tacit existence of the Charter and there had been confidence that the Charter would eventually be ratified and the International Trade Organisation established, with all its careful equilibrium between the interests of the great industrial countries and the under-developed countries. This hope had now receded into the remote distance. Consequently, any proposed strengthening of the Agreement would now have to be scrutinized in the light of the United States declaration.

All the things that contracting parties had hitherto avoided doing in order not to jeopardise the Havana Charter they now should do. The General Agreement was not sufficient for the under-developed countries and sooner or later certain provisions of the Charter would have to be brought into force. He was thinking in particular of provisions such as those in Article 32, Chapter VI, Article 15, certain Articles of Chapter 2. If such matters should not be immediately discussed by the working party to be set up, they should at least be borne in mind. At some specific time, attention would have to be given to the under-developed countries. As to the character to be given to the Canadian proposal, he feared the danger of slipping into a delegation of powers. At Annecy, when the question of inter-sessional machinery was discussed with regard to procedures for Article XI to XIV and XVIII, there was a considerable struggle to prevent a text which would have involved a delegation of powers and perhaps the struggle had not been entirely successful. The Working Party should give careful consideration to this matter. Furthermore, the name of working party for such a committee was not without danger. During a session working parties were under constant scrutiny of the Contracting Parties and had always the possibility of recourse to the Contracting Parties whenever there was a question of interpretation or of terms of reference. This committee would be both isolated and nearly autonomous. In addition, when its work was brought before the Contracting Parties, there would be a tendency to consider that all the necessary work had been done. It seemed to him that it should be clearly established that its functions would be simply of a preparatory nature for regular sessions of the Contracting Parties. The Contracting Parties would then work on the material presented to them through the ordinary working party machinery. It would be prudent also to limit the duration of this Committee as well as its competence in order that its usefulness could be reviewed after a certain period. As to the question of site, he agreed with the Italian representative that Geneva would be preferable. He particularly drew the attention of the Contracting Parties to the fact that the task of the Working Party was a delicate one and requested it to pay careful attention to details and shades of meaning. This proposal, with its evident dangers and less evident benefits, would be otherwise difficult of acceptance by governments.

The meeting adjourned at 7 p.m.

