

GENERAL AGREEMENT ON TARIFFS AND TRADE

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LIMITED B
GATT/CP.5/SR.23
19 December 1950
ORIGINAL: ENGLISH

CONTRACTING PARTIES
Fifth Session

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

Held at the Marine Spa, Torquay, England
on Friday, December 15, 1950 at 10.30 a.m.

Chairman: Dr. van BLANKENSTEIN (Netherlands)

- Subjects discussed:
1. Assured life of tariff concessions with respect to Article XIX (GATT/CP.5/22) (Continued)
 2. Report of Working Party "A" on Article XVIII (GATT/CP.5/29 and GATT/CP.5/40)
 3. Report of Working Party "D" on Insecticides (GATT/CP.5/47)

1. Assured Life of Tariff Concessions with Respect to Article XIX (GATT/CP.5/22) (Continued)

Mr. BYSTRICKY (Czechoslovakia) said that before replying to the question put to him the day before by the Chairman he would like to reply to the representative of the United States of America and other speakers. He wished to make it clear that whereas other countries, under inexorable pressure, had accepted the resort to the escape clause of Article XIX, his delegation insisted that any country taking such action should be allowed to do so only if all the conditions set out in the Article were fulfilled. In reply to the United States representatives' statement of November 10, he wished to say that they had again failed to prove their case. A change of fashion could not be considered an "unforeseen" contingency, nor could he agree that the increased imports were the result of tariff reductions. The contrary had been proved. Among other things, the foreign label was an attraction to consumers and a rate of duty of 55% should certainly be considered sufficient protection in an industrialized country. The United States delegation had not even succeeded in proving that serious injury had been caused to the industry. It appeared, in fact, from the report of the Tariff Commission that production had been trebled and that the industry was seeking shelter for an intended expansion. The fall in employment figures had been from 4349 to 3817. The United States delegation had not even maintained that these 532 had lost their employment because of increased imports. He submitted that these persons might have left the industry because they found some profitable employment elsewhere. In the course of the consultations with the United States delegation, his delegation had made three concrete proposals, none of which had been accepted by the United States who, however, made no proposal of their own. The representative of the United States had stated on December 8 that consultation meant give and take by both parties, but this had not been the case. He further referred to the statement that the Tariff Commission had made its finding and could not change it. He felt this was the wrong approach to trade disputes.

In reply to the question put to him by the Chairman at the previous meeting, whether they would be satisfied with a declaration to the effect that the Contracting Parties - after examining the question - had noted that no agreement had been reached and that the Czechoslovak Government was entitled to apply paragraph 3 of Article XIX, he said his delegation could not accept the suggestion. Several delegates had mentioned Article XVIII expressing different opinions on its applicability. It was, however, now a question of principle: what action could be taken if a member violated the provisions of GATT. The Contracting Parties had found ways of dealing with such matters. Whenever a complaint was lodged the Contracting Parties should examine it, state their view and if they found that there had been violation of the Agreement they should recommend a remedy.

The CHAIRMAN, in order to avoid a lengthy discussion, asked the delegation of the United States whether they would accept an investigation of the Czechoslovak complaint under Article XXIII and Mr. CORSE (United States) replied that his delegation would have no objection.

The CHAIRMAN thanked the representative of the United States and thought it would be very doubtful if, in view of the time remaining before the end of the session, they could have a full investigation. He suggested the establishment of a working party to investigate the Czechoslovak complaint between the present and the next meeting of the Contracting Parties. This would not, in practice, be a difficult matter as most contracting parties would be represented in Torquay for some time.

Mr. BYSTRICKY (Czechoslovakia) thought that his case had been fully proven and that, without an investigation, the discussion which had taken place should have enabled the Contracting Parties to take a decision.

Mr. CORSE (United States) accepted the proposal for a working party. He wished to add that his silence with regard to specific points made by the Czechoslovak representative at the present meeting did not mean agreement. The United States delegation in their statement had made a full case and had not, as the Czechoslovak delegation had done, based their argument on one or two isolated points.

Mr. LECKIE (United Kingdom) said that, without prejudice to the question which was for the contracting party taking action under Article XIX to satisfy itself that its provisions were fulfilled, or whether the Contracting Parties had a right to investigate the matter, the United States had indicated their willingness for an investigation by a working party. He thought the Contracting Parties would be ill advised to take a decision without a fuller examination of all the facts. He therefore supported the proposal of an investigation by a working party.

M. CASSIERS (Belgium) and Mr. SILLBERG (Norway) spoke in favour of the appointment of a working party.

Mr. DI NOLI (Italy) recalled that even if the Contracting Parties should decide to examine the complaint of Czechoslovakia under Article XXIII, his delegation wished to continue with the initiated procedure of Article XIX. No decision of the Contracting Parties at this point should prejudice the right of the Italian delegation to continue in this procedure which had already been initiated.

M. LECUYER (France) associated his delegation with the Italian statement and the CHAIRMAN agreed.

Mr. BYSTRICKY (Czechoslovakia) said that the American action was effective from 1 December so that they would have liked to have a decision at the present meeting. They would accept the establishment of a working party if they were alone in their opposition.

The CHAIRMAN said it was clear from the discussion that the Contracting Parties approved of his proposal. He proceeded to read paragraph 1 of Article XIX because he said it was only to that provision that a working party could refer; it would not be their task to pass judgment upon the decision of the United States on general economic grounds.

The Contracting Parties agreed to set up a working party

to examine the contention of the Czechoslovak Delegation that, in withdrawing item 1526(a) from Part I of Schedule XX, the United States had failed to fulfil the requirements of Article XIX, and to report to the Contracting Parties.

The composition of the working party would be proposed at the next meeting.

Mr. BYSTRICKY (Czechoslovakia) expressed his regret that no decision had been taken although his delegation felt they had proven their case. The decision of the United States caused them serious injury but he wished to make it clear that their complaint did not reflect any weakness of their economy. They had taken a conciliatory attitude and deplored that a friendly settlement had not been reached.

2. Report of Working Party "I" on Article XVIII (GATT/CP.5/29 and GATT/CP.5/40)

The EXECUTIVE SECRETARY said that the Chairman of the Working Party had asked him to express to the Contracting Parties his regret for not being able to present his report; although he had travelled to Torquay for the purpose, the prolonged discussion on the previous item had prevented him from doing so, and he had had to return to his duties in London.

The Executive Secretary referred to the two reports (GATT/CP.5/29 and GATT/CP.5/40) presented by the Working Party, which related to measures notified by Italy under Article XVIII. In each case the Italian delegation, after consulting their Government, had informed the Working Party of the Italian Government's desire to withdraw the application. In these circumstances the Working Party did not examine the substance of the matters and asked the Contracting Parties to take note of the action of the Italian Delegation. The report was accepted by the Contracting Parties.

3. Report of Working Party "D" on Insecticides (GATT/CP.5/47)

Mr. CLARK (Australia) said the report reflected the divergent views expressed in the course of the discussions of the Working Party as to the best means by which the objectives of the World Health Organization might be achieved. Although a number of members of the Working Party favoured the suggestion of a resolution by the World Health Organization calling upon its members to further the free flow of insecticides, it was considered that the Working Party's terms of reference required it to concentrate its deliberations upon the draft Agreement submitted by the World Health Organization. The representative of the World Health Organization had himself pointed out that resolutions had been adopted in the past in this field and had proved ineffective.

The draft Agreement before the Contracting Parties was essentially a compromise between a desire, on the one hand, to maintain breadth of scope and flexibility in the convention and, on the other hand, to define with precision the limits of the obligations to be undertaken by the signatory states. As a compromise it was not entirely satisfactory to either side but provided a basis on which future improvements could be effected.

Mr. LEOCKIE (United Kingdom) recalled that his delegation had also made it clear that they were not in favour of an agreement of the kind proposed because the matter was not susceptible of regulation. He referred to the draft letter to the Director-General of the World Health Organization, attached to the report, which he felt did not, in its fourth paragraph, correctly reflect the division of views in the Working Party, and submitted an amendment to the fourth paragraph for the approval of the Contracting Parties.

Mr. HERTLER (Sweden) wished to make some remarks on points in respect of which he did not share the opinion of the majority of the Working Party. As a major part of the Report took the form of a draft letter to the World Health Organization no suitable place had been found to record his dissent. It had been felt more opportune that his remarks be recorded in the minutes of the present meeting.

His delegation felt that in principle the use of a product for the extermination of insects as a public health measure should in itself determine the duty free treatment of the product. In view of the guarantees, provided by paragraph 2 of Article I of the draft Agreement, that products would be used for such purposes, he saw no reason why the products should be refined in

an annex to the Agreement. Further, he thought the limitations indicated in the first paragraph of page 3 of the Report in respect of equipment for the processing or manufacture of insecticides, were also to a great extent applicable to raw materials required in the production of insecticides. He therefore thought that raw materials could more adequately be covered - as was the case with equipment - by the more general terms of Article III of the draft Agreement. This remark might appear unnecessary in view of the very conditional character of paragraph 1 of Article I, but he wished to make it clear that he belonged to that group of members of the Working Party who would have preferred to make the agreement broader in scope.

Mr. DI NOLI (Italy), recalling that he had at a previous meeting put forward his delegation's objections to the draft Agreement, expressed his support for the amendment proposed by the United Kingdom, but did not agree that the difficulties were due to the nature of the product. He felt there were other objections.

Mr. EVANS (United States) expressed preference for the letter as it stood but if the Contracting Parties wished to make any changes, he thought the fullest and fairest explanation of the position of the Working Party was contained in the third paragraph of the report itself. The changes in the letter could be made accordingly.

Mr. KINGSTON (Brazil) supported the amendment proposed by the United Kingdom delegation because it represented the views of the majority of members of the Working Party.

Mr. CLARK (Australia), speaking as representative of Australia, wished to point out that the text before them represented the balance of opinion in the Working Party. The amendment submitted by the representative of the United Kingdom appeared to prejudge the issue in the Contracting Parties; if it were intended to mean that the members of the Working Party held divergent views, it would be more correct to say so. He wished to say that he had no objections to amending the letter as suggested by the United Kingdom by using the language of paragraph 3 of the report, which would also cover the point raised by the United Kingdom.

Mr. BYSTRICKY (Czechoslovakia) associated himself with the amendment of the United Kingdom.

Mr. LECKIE (United Kingdom), referring to the Italian representative's objection to that part of their amendment which was concerned with the nature of the products, said his delegation did not consider that such products could with precision be defined. As had been pointed out by the representative of Sweden, the products which came into consideration were constantly changing. He had no objection to the United States proposal to re-draft the part of the paragraph which gave the views of the other side, provided the balance was preserved. He thought paragraph 3 of the report did not represent the division of opinion. As regards the point raised by Mr. Clark, he said his delegation had proposed an amendment to the letter which should give to the World Health Organization the views of the Contracting Parties and not the views of the Working Party. It was, of course, for the Contracting Parties to decide whether this wording did represent their views.

Mr. EVANS (United States of America) withdrew his amendment to replace paragraph 4 of the letter by paragraph 3 of the report and suggested an amendment to the last phrase of the United Kingdom amendment.

The meeting rose at 1.15 p.m.

