

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Ninth Session

SUMMARY RECORD OF THE THIRTY-FOURTH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 February 1955, at 3 p.m.

Chairman: H.E. Mr. L. Dana WILGRESS (Canada)

- Subjects discussed:
1. Benelux request to renegotiate certain items in Schedule II
 2. Interim Report of the Working Party on Commodity Problems
 3. German import duties on starch and potato flour
 4. Request for waiver by Czechoslovakia from Article XV:6
 5. Appropriation for Unforeseen Expenditure

1. Benelux request to renegotiate certain items in Schedule II (SECRET/20)

Mr. BOOMSTRA (Netherlands), representing the Netherlands Antilles, explained the request to renegotiate certain concessions. He said that while his Government could, of course, have availed itself of the possibility afforded by Article XXVIII for renegotiation, they felt that, pursuant to the reservation made on the occasion of the most recent prolongation of the assured life of the Schedules and having regard to the reasonableness of their action, it would be more suitable to have recourse to the procedure of sympathetic consideration. The new rules governing negotiations under that procedure, as provisionally worked out, seemed acceptable to his Government. With regard to the statistical material submitted with the request of the Netherlands Antilles, he feared that the figures pertaining to Benelux imports into the Netherlands Antilles had been set out in a way that might give rise to misunderstandings. He wished to state explicitly, therefore, that imports into the Antilles from the Benelux countries did not enjoy any form of tariff preference and that the entire import trade of the Antilles was governed by the principle of free and equal competition. The revision of the Antilles' tariff would, accordingly, apply to imports from the Benelux countries in the same way as to all other imports. Finally, he thought the negotiations would not present serious complications, nor take much time, since the number of parties interested in the items affected was small.

The CONTRACTING PARTIES agreed to grant the Benelux request to renegotiate a certain number of concessions under the sympathetic consideration procedures.

Mr. Hadji VASSILIOU (Greece) wished to take the occasion of the discussion of the request by Benelux for the renegotiation of certain concessions, to draw the attention of the CONTRACTING PARTIES to document SECRET/23 containing the notification by Greece of its desire to enter into negotiations with a view to withdrawing certain concessions on items appearing in the Schedule XXV. The intention of the Greek delegation had originally been to present the Greek case as a special case. In view of the spirit which had prevailed during the Ninth Session, however, the Greek delegation had decided to present its case within the framework of the existing Article XXVIII. Mr. Hadji Vassiliou called the attention of the CONTRACTING PARTIES, particularly, to the third and fourth paragraphs of document SECRET/23 which related to the particularly restricted range of compensation which the Greek Government would be able to offer and the need for a generous interpretation of the provisions of Article XXVIII. Particular account should be taken of the fact that Greece, having almost entirely liberalized its imports two years previously, preferred not to have recourse in the present circumstances to the provisions of the General Agreement authorizing recourse to quantitative restrictions. He did not doubt that, during these negotiations, contracting parties would show such an understanding as to permit the Greek Government to join them in accepting the declaration on the continued application of the Schedules beyond 30 June 1955.

The CHAIRMAN suggested that the Greek request be dealt with on the same basis as the request recently made by the delegation of South Africa. All contracting parties viewed with sympathy the Greek effort to liberalize its trade and he wished to commend to the CONTRACTING PARTIES the statements of the Greek Government which had been circulated in document SECRET/23.

Reverting to the Benelux request, he proposed that, with regard to the procedure for determining the countries specially interested in the items to be renegotiated, the same procedure be followed as in the case of the South African request and that those contracting parties which considered themselves substantially interested should so inform the Benelux delegations and the Executive Secretary as soon as possible. Insofar as there was agreement between such contracting parties and the Benelux delegations it would be deemed to be a determination by the CONTRACTING PARTIES and only in the event of disagreement would the CONTRACTING PARTIES be required to act in this matter.

In reply to a question by the South African delegate the Chairman explained that the time limits for the Article XXVIII negotiations, under which procedure South Africa was presenting its case, had not yet been

fixed. The Benelux request was made under the sympathetic consideration procedure and since this was a matter that concerned relatively few contracting parties he hoped that the necessary procedures for getting the negotiations under way could be carried out as quickly as possible.

Mr. BOOMSTRA (The Netherlands) noted with satisfaction the sympathy displayed by contracting parties with regard to the Antilles' request. In order to avoid any possible misunderstandings he thought it necessary to say a few words about the compensatory adjustments that might be expected in the Antilles' tariff. His Government was convinced that, as a consequence of the intended increase in the bound Schedule (and in the unbound sector of the tariff as well), the total quantity of imports of the items concerned would not be decreased to any appreciable extent. The revision not only had no restrictive purpose but would not, in their opinion, have any restrictive effect. In practice, he thought, no country could seriously apprehend a drop in its exports to the Antilles on account of a possible increase in the local purchase price, amounting to less than 1 per cent in most categories and generally not more than 3 per cent for the more highly taxed goods. The Antilles situation was such that an eventual slight increase in the level of prices could easily be absorbed by the available purchasing power. Being entirely dependent on imports for the supply of goods in general, and with almost no internal production of any goods involved in the import trade, it must be clear that for the Antilles the possibility of a shift of demand to domestic production did not arise. When approving the tariff revision, his Government had taken all aspects of the Antilles' economy into account, so as not to have the objective of the revision frustrated by any significant decline in imports. In the circumstances, although his Government was, within the limits of the existing possibilities, prepared to meet any justified demands for compensation, no compensations were, in principle, in the opinion of his Government, called for, unless there was reason to anticipate a decrease of imports under any special item. This might, in theory, be the case where a diversion of demand from one item to another could be expected, but Mr. Boomstra did not think there would, in practice, be instances of that kind. His Government was prepared to rebind the concessions at the new level and under the circumstances he had set out this rebinding should, in principle, be considered as an equivalent concession.

Mr. WEISS (United States) said that his Government had indicated at the Eighth Session their willingness to consider sympathetically the request of the Netherlands Government when it was made. They would now do all in their power to expedite the procedures of the negotiations and they would indicate the particular items in which they had an interest as soon as possible. With regard to the question of compensation, his Government would proceed in the normal fashion. They would take account of the considerations set forth by the representative of the Netherlands Antilles and review the individual items involved. On that basis they would proceed to judge what compensatory concessions they might wish to seek.

The procedures proposed by the Chairman for the determination of the contracting parties interested were agreed to.

2. Interim Report of the Working Party on Commodity Problems (L/320)

The CHAIRMAN explained that the Chairman of the Working Party, Mr. Peter (France), had been unable to stay for the presentation of the report and that the Chairman of the Drafting Group, Mr. Willson (Canada), had also had to leave Geneva.

Mr. EVANS, Secretary of the Working Party, introduced the interim report which had been submitted in accordance with its instructions to submit such a report at the end of the Session, in the event that it was not possible at that date to submit final recommendations. He referred to the fact that the members of the Working Party had acted as experts and that, therefore, very few specific reservations of governments were recorded in the report itself. Furthermore, the entire subject of the relations with the General Agreement had been set aside for discussion at a later date. The conclusions of the report were set out on page 5 thereof. The Working Party understood that it was intended that it should carry on its work to a more final conclusion following the interim report and, therefore, proposed that the Executive Secretary be asked to transmit copies of the report, including the draft agreement, to contracting parties, appropriate inter-governmental organizations, and governments entitled to send observers to meetings of the CONTRACTING PARTIES. Contracting parties and observers would be invited to submit written comments and amendments and the Working Party would reconvene at a time to be determined by the Executive Secretary, allowing governments the maximum time for consideration of the draft text, but with a view to the Working Party completing its work before the Tenth Session.

The CHAIRMAN explained that this was only an interim report and that there would be a full opportunity for governments to express their views on the text before the next session of the Working Party. The CONTRACTING PARTIES at this stage would only be expected to take note of the report and he requested delegates to limit, as far as possible, any remarks they might wish to make on the substance of the draft agreement at this stage.

Mr. CRAWFORD (Australia) said that in view of the Chairman's remarks he would not make all of the comments which he had intended to make on the interim report. To make no comment at all, however, might imply that the Australian delegation considered the report reasonably satisfactory. Australia had taken part in the Working Party and appreciated the opportunity for an exchange of views that that had afforded. He intended to recommend to his Government that Australia should participate in the future work of the Working Party.

Nevertheless, the draft agreement was unsatisfactory from Australia's point of view. From the beginning his delegation had stressed the need for caution in assuming obligations more restrictive than those imposed by the Agreement on exporters of primary products. The Agreement did not

limit the freedom of contracting parties to regulate prices or to restrict production. It did prohibit the use of quantitative restrictions (unless a waiver were granted) and the use of quantitative restrictions became the only major point upon which a clearance under the Agreement for a commodity agreement would normally be required. It was a question, so far as primary producing countries were concerned, whether it was worth subscribing to a comprehensive and, indeed, restrictive set of principles for this doubtful benefit. The major deficiency in the draft was the inability of countries with a major interest to negotiate a commodity agreement among themselves without the possibility, or perhaps the certainty, that all countries, including some without a real interest, would be present at the negotiations. They were being asked to condone procedures which would give countries not interested the opportunity to disrupt negotiations if they so wished. Australia felt that commodity agreements should be negotiated by countries genuinely interested and that arrangements be made for the GATT to act as a registry of such agreements with the right of disapproval if they were in breach of a few simple principles. Mr. Crawford said that his delegation was entirely opposed to Article XII of the draft agreement which would prohibit Signatories from negotiating or concluding agreements except in accordance with the draft agreement. The result of this would be to establish two categories of countries - one which had not accepted, and the other which had, the draft agreement - and those in the first category would not be able to conduct commodity negotiations with those in the second, except on a bilateral basis. This could easily lead to an impossible situation in a time of real difficulty and harm world trade.

Another illustration of his criticism of the draft agreement, Mr. Crawford said, was the provisions of Article IV that allowed for no diversion from the strict equality of votes as between producers and consumers in certain types of commodity agreements. Such provisions were inadvisable, unnecessary, and gave away an important negotiating point in advance. They tied the hands of the producers before they began negotiations. Moreover they ignored such things as the relative weight of investment in buffer stocks. The appeal system set out in Article VI and the right to challenge in Article VII were two more provisions that the Australian delegation found full of difficulties. They would encourage obstruction and irresponsibility, and his delegation would contest these Articles at any future meeting of the Working Party. In short, Australia preferred to see the Signatories to a commodity agreement in control of that agreement as was the case in the International Wheat Agreement. Finally, the draft agreement was unnecessarily long and there was considerable evidence of hasty drafting.

In conclusion Mr. Crawford said that the adoption of any suggestion that the draft agreement in its present form should become an integral part of the GATT was unthinkable. His delegation was so dissatisfied with the draft that he could make no favourable recommendation to his Government except that it be taken as a starting point for further discussions and, he hoped, major changes.

Mr. VALLADAO (Brazil) said that, like the Australian delegate, he felt that this report, although an interim one, was of such importance that he would like to record some of the views of his Government on it. The consideration by the CONTRACTING PARTIES of the problem of commodities, in the opinion of his Government, should be viewed firstly in the light of the fact that the GATT had an obligation as a result of the Economic and Social Council resolution creating the Commission on International Commodity Trade, and that a certain inconsistency had appeared in the attitudes of governments before the ECOSOC on the one hand, and before the CONTRACTING PARTIES on the other. Secondly, it should not be forgotten that the Working Party had been created by the CONTRACTING PARTIES despite the declaration of the United States delegation that they were absolutely opposed to the discussion of such matters, an opposition which made consideration by the CONTRACTING PARTIES useless in the view of his delegation. His delegation had taken part in the Working Party without engaging the position of his Government, and it was only on two points that he wished to offer some comments at this stage. There should be no question of subordinating the draft agreement to the CONTRACTING PARTIES as a whole. There was no reason to bring particular commodity agreements before the CONTRACTING PARTIES or giving the latter the power to decide on the merits of a particular agreement. The second point of interest to the Brazilian delegation was the question of the representation of metropolitan territories and their dependencies in study groups, negotiating conferences and commodity councils (L/320, page 4, and W.9/140, page 13, Article XVII (c) of the original United Kingdom draft). His delegation had been concerned with this point since 1953. He called attention to Article 103 of the United Nations Charter, and wondered how it could be accepted that a non-autonomous territory, i.e. one which had not attained self-government, be permitted to exercise in the international field the rights without the duties of sovereign nations. He was aware that Havana Charter Article 69 waived this basic rule of international relations, but after all, the Havana Charter had never been ratified, and it was surely incorrect to invoke isolated provisions of it to support a country's point of view. Moreover, the United Kingdom on this question of the admission of non-autonomous territories had taken an inconsistent position in various international bodies. For example, at the 123rd Session of the International Labour Organization, the United Kingdom representative expressed the view that recognition of non-metropolitan territories would modify completely the character of the Organization, precisely for the reason that such territories should not be granted the rights of sovereign nations without their responsibilities. Furthermore, the declaration made by the United Kingdom at this Session of the GATT on the subject of dependent overseas territories was inconsistent with the proposal to grant them representation in commodity groups. From the practical viewpoint, as opposed to the juridical, Mr. Valladao wished to point out that neither the International Wheat nor Sugar Agreements had special clauses as proposed here, and the sugar agreement even provided, in the special case of France, that it could be counted either as a producer or a consumer, as the case might be in the year in question, but never as both. It was hardly

practical to set up a situation where a country and its dependent territories had separate votes, respectively as consumers and producers, with the result that they could influence the decisions reached. Brazil of course did not oppose the evolution of those territories and their political and economic development, but they would not engage in any measure which was mainly calculated to benefit a metropolitan area. They could accept no agreement which contained a provision such as the original Article XVII (c) of the United Kingdom draft.

Mr. KOELMEYER (Ceylon) said that this report was essentially an interim one, and the draft agreement should be considered as a basis for further discussions. His delegation was among those which had wished to see the principles set forth in the special agreement closely linked to the General Agreement. Mr. Koelmeyer supported a number of points made by the Australian delegate and was particularly dubious about the undertaking by countries of undue restrictions. He agreed that Article XII of the draft agreement was restrictive and could preclude countries from reaching an agreement. His delegation, however, intended to send the draft to his Government as a basis for further study.

Mr. WEISS (United States) said that his delegation had studied with interest the interim report. His Government had made its position clear in the statement of his delegation in December (W.9/111) and the position remained the same. As they had noted then, the United States believed that enough machinery, indeed more than enough, existed to deal with the problems of commodity trade. For this reason, among others, they believed additional machinery would be unnecessary. Moreover, additional machinery would be in their view unwise. The United States fully appreciated the great importance of commodity trade in the economic life of many countries and was cognizant of the harm which might be done to the interests of such countries by excessive price instability. They questioned, however, whether commodity agreements were the appropriate way in which to meet this problem and feared that the restraints and rigidities which were introduced were likely to stand in the way of a satisfactory solution of, if not to intensify, the very problems they were meant to correct. For these reasons, he hoped that, on further reflection, governments would agree that it was neither necessary nor wise to seek new commodity arrangements such as were suggested in the Working Party report. If, however, a commodity convention such as the one described in the annex to document L/320 should be negotiated, it was the view of the United States, as stated in document W.9/111, that "... it should be entirely separate from the General Agreement and the new Organization. It should have its own governing body and administrative group, its own budget and its own secretariat. Neither the CONTRACTING PARTIES nor the new Organization should have power over or responsibility for the administration of any such convention, or any agreement negotiated under it. Their only function should be to see that participation by any contracting party in such a convention or agreement did not involve any unpermitted deviation from such contracting party's obligations under the General Agreement."

It continued to be the considered view of the United States Government that a close association of any new convention with the new GATT Organization, or its administration by the Organization or by its staff, or the extension of the scope of activities of the new Organization into the commodity field beyond the trade aspects which are already within the scope of the General Agreement, would endanger the firm and full participation of the United States in the new Organization under explicit Congressional approval. The United States delegation requested that in their consideration of this problem in the months ahead, governments would take these views fully into account.

Mr. SANDERS (United Kingdom) said that, unlike other speakers, he was able to view with satisfaction the substantial progress made by the Working Party. The views of his delegation had been outlined in his statement of 3 December 1954 (W.9/76) and it appeared from the Working Party report that there was a substantial measure of agreement with these views among governments representing both producing and consuming countries. Certain representatives had called attention to the points on which their governments were likely to see difficulties and, while not feeling that this was the occasion to debate these matters, Mr. Sanders wished to say that the United Kingdom had always conceived the approach of Chapter VI of the Havana Charter, properly adjusted, to be the right basis for commodity arrangements, and that they would not expect to be able to view sympathetically any other approach. Secondly, on the point on which the Brazilian delegate had expounded his views, he wished to make it clear that the United Kingdom could hardly accept a reversal of the principles which were established at Havana and had been followed since on the adequate representation of dependent overseas territories in study groups, negotiating conferences and commodity councils.

The United Kingdom believed that the CONTRACTING PARTIES were the appropriate body to sponsor an international agreement of the kind suggested by the Working Party, and their views on the relationship that should exist between such an agreement and the CONTRACTING PARTIES were known and, he believed, widely supported among contracting parties. Some divergencies, however, had appeared on this issue and the Working Party decided that this was a matter on which it could not attempt to make recommendations until its next Session. The United Kingdom hoped that the CONTRACTING PARTIES would agree with the recommendations of the Working Party report and endorse the necessary arrangements for the submission of the draft agreement to governments. His Government would co-operate in the work of the second session of the Working Party and do all in its power to assist in preparing the final text. They hoped that it would thus be possible to fill the gap which had existed for so long as a result of the absence of any body empowered to administer the basic principles of Chapter VI of the Havana Charter, or to bring these principles into line with experience since 1947. Finally, Mr. Sanders wished to thank Mr. Peter for his skilful chairmanship and suggest that the CONTRACTING PARTIES again express their gratitude to the French Government for making his experience available.

Mr. VALLADAO (Brazil) regretted that he had still received no adequate answer to his arguments and that the Havana Charter had been invoked yet once again. In fact, the only occasion that he was aware of when the principles of the Charter in this matter had been followed in a negotiated commodity agreement, was in the case of the Tin Agreement. He referred to the United Kingdom position before the United Nations Committee on Information on Dependent Territories that non-autonomous territories should not have representation since that would constitute double representation. Precisely the same thing was now being asked of the CONTRACTING PARTIES.

Mr. Valladao wished to refer to the statement of the United States once again expressing their complete opposition, which in the view of the Brazilian delegation gave no prospect of any success at all to the proposed new Agreement. He would hope that the United States would be able to approach this matter differently before the next meeting of the Working Party. He could not agree with their argument that the existing machinery, illogical, unpractical and with much overlapping as it was, was adequate.

Mr. de SAINT-LEGER (France) hoped the CONTRACTING PARTIES would adopt the conclusions of the interim report and thanked the Chairman and the United Kingdom for their appreciation of the services of Mr. Peter.

The CHAIRMAN observed that the views which had been expressed in this meeting would assist governments in their consideration of the interim report. There appeared to be no objection to the conclusions of the report, and accordingly the Executive Secretary would be asked to transmit copies of the report, including the draft agreement, to contracting parties, appropriate inter-governmental organizations and governments entitled to send observers; to invite such governments and organizations to send observers to the next meeting of the Working Party, or submit written comments and amendments to the draft agreement. The Working Party would then reconvene at a time to be decided by the Executive Secretary. The appreciation of the CONTRACTING PARTIES for the skilful chairmanship of Mr. Peter would be recorded, as well as their thanks to the French Government for making him available.

3. German import duties on Starch and Potato Flour - Report by Panel
(W.9/178)

Mr. JHA (India) said that the report of the Panel recommended that the CONTRACTING PARTIES take note of their report on the case. The Panel had been helped by the co-operative spirit of the two delegations concerned, who had been able to come to an agreed settlement and it was hoped that it would not be necessary for the CONTRACTING PARTIES to revert to this matter again.

The CONTRACTING PARTIES took note of the report of the Panel on Complaints.

Baron BENTINCK (The Netherlands) expressed the gratitude of his Government at the disposal of the case and thanked the German delegation for their co-operation. A satisfactory first step toward the fulfilment of the obligation undertaken by them in 1951 had been taken, and this was renewed proof of the valuable rôle played by the CONTRACTING PARTIES in the settlement of such matters.

Mr. GEHRIG (Germany) expressed the thanks of his delegation.

4. Request from Czechoslovakia for a waiver of the Provisions of Article XV:6 (L/323)

Dr. SVEC (Czechoslovakia) explained that this matter was connected with the proposals submitted by his delegation (W.9/142) to amend paragraph 6 of Article XV in such a manner as to correspond more fully to the specific circumstances of his country, i.e., to exempt a contracting party with a complete state monopoly of its foreign trade from the obligation of Article XV:6 to be a member of the Fund or to enter into a special exchange agreement. The reasons behind the proposal had been explained in the Sub-Group, to the effect that a country having such a monopoly could not by any alteration of the exchange rate of its currency in any way affect international commercial transactions nor impair concessions or benefits accruing to other parties under the Agreement. The members of the Sub-Group did not support the solution of the special case by an amendment of the general rule, and his delegation believed that the CONTRACTING PARTIES might consider it more desirable to deal with this technical difficulty by a special waiver. His delegation therefore requested that the matter be placed on the Agenda of the Session and suggested that it be examined in the first instance by a Working Party, to which they would submit a draft decision along the lines of the decision taken by the CONTRACTING PARTIES on a similar request by New Zealand.

It was agreed to add the request by the Czechoslovak delegation to the Agenda of the Session and to refer the matter directly to Working Party 4 on Balance-of-Payments Restrictions.

5. Appropriation for Unforeseen Expenditure (L/321)

It was agreed that the note by the Executive Secretary be referred directly to the Budget Working Party for consideration and to report.

The meeting adjourned at 6.00 p.m.