

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Tenth Session

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SUMMARY RECORD OF THE THIRD MEETING

Held at the Palais des Nations, Geneva on
Saturday, 29 October 1955 at 10 a.m.

Chairman: Mr. L. Dana WILGROSS (Canada)

- Subjects discussed:
1. Withdrawal from the Agenda of item concerning the United States orange subsidy
 2. Japanese Accession
 3. Business practices
 4. United Kingdom waiver - Article I
 5. United Kingdom waiver - overseas territories
 6. Swedish anti-dumping duties
 7. Registration of instruments

1. Withdrawal from the Agenda of the item concerning the United States export subsidy on oranges

Mr. NOTARANGELI (Italy) stated that his delegation wished to withdraw the complaint concerning the United States export subsidy on oranges, as a result of the bilateral conversations which had been taking place.

Mr. PANSEGROUW (Union of South Africa) said he was agreeable to the withdrawal of this item provided that it could be brought to the attention of the CONTRACTING PARTIES should it again become necessary.

Mr. BONERIGHT (United States) said that the bilateral talks had been productive, and he appreciated the cooperation of the Italian and South African Governments. He wished to add that starting on 1 November the export payment on oranges would be reduced from 75 cents to 50 cents a box.

The withdrawal of this item was agreed.

2. Accession of Japan (L/438 and L/420)

The CHAIRMAN referred to the statement made at the previous meeting by the Japanese representative, and particularly to his suggestion that any countries which envisaged difficulties in their trade with Japan should frankly put these

forward before the CONTRACTING PARTIES, so that the latter could consider them in devising a solution.

Mr. ISBISTER (Canada) said that it was obviously desirable and had long been recognized that Japan should take its proper place as a major trading country, both from the Japanese point of view and, if the Agreement was to continue to be the broad international instrument in the field of commercial policy, from the point of view of the CONTRACTING PARTIES. A situation where fourteen countries had found they must invoke Article XXXV was not satisfactory. Canada, which was not among those fourteen, had earlier addressed itself to the problems which might exist in resuming normal commercial relations with Japan, and had found a basis on which they could support the accession of Japan and accept the unqualified operation of the Agreement between them. He recognized that individual countries had the right to invoke Article XXXV. Since, however, so many had done so, a problem was created for the CONTRACTING PARTIES as a whole. It was necessary to find a solution along non-discriminatory lines and one which would not impair the existing principles and regulations of the Agreement in so far as they applied among contracting parties.

Mr. AZIZ AHMAD (Pakistan) referred to the support from the beginning which Pakistan had extended to Japanese accession, despite their own circumstances of being a very newly industrializing country. He shared the disappointment of Japan and others that the solution they thought had been reached at the Intersessional Committee and reported in document L/76, which would have avoided extensive resort to Article XXXV, had not in fact proved acceptable. It was necessary for the CONTRACTING PARTIES to address themselves to this problem, since no single nation should be so singled out and denied trading opportunities. Some machinery should be established to investigate in what manner the political, psychological and real economic difficulties could be overcome. Perhaps this was a case in which the panel system might usefully be used, and a small number of representatives, in whom the CONTRACTING PARTIES had confidence, might examine the difficulties of each invoking country with Japan.

Baron HENTINCK (the Netherlands) said that his Government had invoked Article XXXV at the time of the definitive accession of Japan and had voted in favour of that accession. They welcomed Japan as a contracting party. The Netherlands would have wished that circumstances were such as to permit them to undertake the full obligations of the Agreement with respect to Japan, but in view of certain aspects of Japanese competition they had not found in the Agreement sufficient safeguards to extend it unconditionally. His Government had, however, declared that they considered this a temporary state of affairs, and felt they had reasons to hope that the development of the Japanese economy and economic policy would eventually permit withdrawing this action. The Netherlands accorded most-favoured-nation treatment in the field of tariffs, and applied in fact most of the GATT obligations. They continued to examine the problem but doubted whether the present provisions of the Agreement could prevent certain difficulties which countries feared with Japanese exports. They would be interested to hear any specific ideas on the subject from the Japanese Government.

Mr. BARBOZA-CARNEIRO (Brazil) referred to his statement at the first meeting concerning his Government's regret that, opposed as they were to all forms of discrimination, they were obliged to invoke Article XXXV because they were in the course of negotiations with Japan. He hoped a satisfactory solution would be reached. The Brazilian Government appreciated the vital need for Japan to enlarge her exports, and would do all in their power to assist.

Mr. JHA (India) referred to the remarks he had made at the first meeting when he had quoted from his Minister's statement to Parliament. With regard to the general interest of the CONTRACTING PARTIES in this matter, he thought it should not be overlooked that Article XXXV was reciprocal and involved freedom from obligations and rights on both sides. The Japanese representative had said that Article XXXV was not intended to give this additional protection, or to lead to such a situation of widespread use of its provisions. In view of the so recent review of the whole Agreement, Mr. Jha could not agree with this view. At that time, many contracting parties had been aware that recourse might have to be had to it precisely for the case of Japan.

The situation which had arisen was not one which should be treated as of a general character, but concerned a group of contracting parties individually and Japan, and the right solution would best emerge by direct discussion between them. Moreover, bilateral solutions would have an advantage in that the problems of one country were not necessarily similar to those of another, and to seek a general solution might only exaggerate the difficulties. He would not avail himself at this stage of the implied invitation of the Japanese statement and the Chairman's opening remarks to set forth the particular difficulties of India. This he felt might delay rather than hasten the solution to the problem. He did wish to observe that, although it was often said that many countries were looking at the matter in the light of pre-war experience and ignoring changes that had occurred since then, in the circumstances of his own country they were necessarily influenced by their post-war experience over a limited field of items, not important in themselves but where it was felt that the industries affected had good reason to ask the Government to be cautious before applying the full obligations of the Agreement to Japan. Despite this experience, however, his Government had refrained from any action inconsistent with the General Agreement and merely reserved their right to do so should a situation arise where no other solution seemed workable. The terms of the Article gave them no option but to avail themselves of it immediately or not at all.

Mr. Jha suggested that after the present debate no formal decision should be taken, but that the matter be left over in the hope that advantage would be taken of the presence of the delegations involved to discuss the matter and see whether any change would be possible. Only after such bilateral discussion should the CONTRACTING PARTIES again address themselves to the question of whether to take formal action now, or to defer the matter.

Mr. FORTHOMME (Belgium) said that when Belgium had envisaged invoking Article XXXV, they had realised the difficult situation which might result out of many countries taking such action. The fact that so many other countries had recourse to the Article complicated Belgium's problem, since they already had the experience of excessive pressure on their market from goods refused other markets. When his Government had decided to invoke the Article therefore, they had indicated their wish to end this abnormal situation as soon as possible, and he assured the Japanese representative that the matter was under continuous study. They applied, in fact, nearly in their entirety the principles and the rules of the Agreement in their relations with Japan. He further assured Japan that the action arose only out of internal requirements, and indicated no disrespect for Japan.

Mr. DUHR (Luxemburg) associated himself with the remarks of the Belgian and Netherlands representatives.

Mr. STANDENAT (Austria) said that the position of his Government was similar to that of the Benelux Governments. They granted most-favoured-nation treatment in tariff matters to Japan and there was no discrimination. Article XXXV had been invoked only as a provisional measure of safeguard, which was made necessary by the actual situation of the Austrian economy. The State Treaty involved heavy financial and economic charges upon the country. Austria was ready to collaborate in the seeking of any formula that might make the invocation of the Article unnecessary. He did not, however, agree to the proposal that this, which was a problem of wide economic and political scope, be studied by a panel. The Indian suggestion that formal action be suspended at this point seemed to him wise, as bilateral contacts between the governments might succeed in isolating the problems and facilitate a general solution.

Mr. BONERIGHT (United States) reiterated the interests and concern of his Government in the problem, and its willingness to participate in the search for a solution which would not weaken the principles of the Agreement.

Mr. SANDERS (United Kingdom) thought that the difficulties of his country were well understood by Japan. Their position had been reached after careful deliberation, and was explained in the statement of policy issued in April 1955 in which they had announced their decision to invoke the Article. Although they could not now accept unconditionally the obligations of the Agreement towards Japan, they looked forward to a time when United Kingdom trade relations with Japan, and Japan's with the rest of the world, would have so developed as to enable the United Kingdom and its colonial territories to accept the full application of the Agreement to those trade relations. In the meantime they hoped that it would be possible to regulate their trade relations on a basis of mutual interest. United Kingdom action had been taken in the light of the discussion at the CONTRACTING PARTIES and Intersessional Committee in 1953, in which they had participated, but they had been forced to conclude that it was not possible to devise anything acceptable to the CONTRACTING PARTIES and the Japanese Government which would not violate or endanger the principles of the Agreement and would still meet the problem as it presented

itself to the United Kingdom. He understood the considerations which had led Japan to bring the matter before the CONTRACTING PARTIES. The difficulties, however, concerned individual countries, and he shared the doubts as to the usefulness of going into these particular difficulties in a general discussion. Nor could he envisage that further discussion of general formulae would lead his Government to modify or deviate from the course laid down in the statement of policy. He would of course report the Japanese views to his Government, and was prepared to consider any suggestion for handling the matter that appeared hopeful.

Mr. PHILIP (France) said that France was one of the fourteen countries which had invoked Article XXXV when Japan was admitted to the GATT. He stressed, however, that this action had implied no indictment of Japan. On the contrary, the French Government was well aware of Japan's economic difficulties and of her need to join the community of trading nations. They welcomed Japan's accession to the GATT. It was with regret that the French Government had had to invoke Article XXXV, as after careful study it had been found that the General Agreement did not afford France sufficient safeguards. Despite the efforts of the Japanese Government to comply with the rules of world trade, prices of Japanese exports remained in general below the world average. The standard of living in Japan, though higher than in many Asian countries, was considerably below that achieved in the industrial countries of Europe, whereas Japan's technical knowledge tended to approach that which existed in industrialized countries. This was no reproach to Japan but rather a problem that called for a collective effort at the international level with a view to helping Japan to reach a higher standard of living in which the French Government would be happy to take part. The framework of the General Agreement, which dealt with purely commercial matters, was, however, not sufficiently broad to permit a solution of this problem. The Agreement had rules which could only be observed by countries of comparable economic structure, and according to Japan the guarantees foreseen in the Agreement would react to the disadvantage of the industrial countries of Europe which had to observe standards of social welfare that Japan was not yet in a position to apply.

In its note the Japanese delegation had asked the contracting parties frankly to state their difficulties. The first main difficulty with which the French Government was faced was the general problem of industrializing France's under-developed overseas territories. Those that were under-populated required that efforts first be made toward a renovation of their agriculture. When these territories were over-populated it was necessary to industrialize as rapidly as possible, and in this connexion the plan adopted by the Indian Government was of particular interest. The infant industries had to be aided and protected. The second main difficulty was the structural crisis in the textile industry, in all European countries as well as in France, to which the creation of textile industries in the under-developed countries had contributed. These two problems, taken together with the low wage structure in Japan's industry, represented a serious threat. In France's case the textile problem was particularly serious and he wished to draw attention to one particular aspect where the differences with Japan were

especially difficult. According to the information furnished by the Japanese delegation, 90 per cent of the employees in the Japanese textile industry in 1951 were women and 73 per cent of these were between the ages of fifteen and twenty. The nominal monthly wage in 1951 was 15,564 yen for a male spinner and 6,791 yen for a female spinner, that was to say, not quite half. France had signed an international convention of the ILO which had established equal pay for equal work and equality of wage rates between the sexes. Difficulties were already created for France by the fact that a certain number of European countries had not signed this convention and the wage structure in Japan created unfair competition which was out of all proportion to the kinds of competition previously encountered within the framework of the General Agreement. The French Government recognized, and congratulated the Japanese Government on the fact, that the artificial elements in Japan's prewar competitive practices had in large measure been eliminated and believed that a solution to the problem should be sought by general intergovernmental action extending beyond the strictly commercial field. It was prepared to study any proposal sympathetically which might lead to a satisfactory outcome to the matter.

The CHAIRMAN said that there had been a frank exposition of the difficulties involved. It had been suggested that the problems were individual ones between countries, whose difficulties were not comparable and that therefore the finding of a general solution would be difficult. There had been a general desire for further study to be given to this matter and another effort made. The suggestion by the Indian delegate that there should be time for reflection both in Geneva and in the various national capitals and that no formal action should be taken until later in the Session had received some support. Delegations could use this time also to consider the Pakistan delegate's suggestion that the panel procedure might be used.

It was agreed to act on this suggestion and to revert to the matter at a later date.

Mr. TAKASAKI (Japan) thanked the CONTRACTING PARTIES for having given an opportunity for this discussion and agreed with the procedure adopted.

Status of Schedules annexed to the Protocol of Accession (L/436)

The CHAIRMAN referred to the status of Schedules annexed to the Protocol of Accession and introduced the report by the Executive Secretary (L/436); he requested clarification from those countries from whom no notification that their Schedules had been made effective had been received.

U Saw OHN TIN (Burma) said that his Government would notify the intention to apply the schedules during the present Session.

Mr. AHMAD (Pakistan) stated that an advice from his Government on this point was in course of transmission.

Mr. SAHLIN (Sweden) said that his Government was taking the necessary technical steps for submitting the Schedules to Parliament.

Mr. IBSEN (Norway) believed that the results of the negotiations were being submitted to Parliament that day.

Mr. KLEIN (F.R. Germany) said that the text of the law with regard to ratification was being prepared and would be forwarded shortly to Parliament.

Mr. RAZIF (Indonesia) hoped the Schedules would be put into effect in the course of the present session.

Mr. GARCIA OLDINI (Chile) Mr. POUMPOURAS (Greece) and Mr. VON KNORRING (Finland) hoped soon to be able to advise the CONTRACTING PARTIES as to the status of the Protocol in their respective countries.

The CHAIRMAN said there was no representative from Nicaragua present and that the CONTRACTING PARTIES would revert to this item later in the Session, when it was to be hoped further progress could be reported.

2. Restrictive business practices (L/384)

The CHAIRMAN said that the question whether it would be appropriate for the CONTRACTING PARTIES (or OTC) to undertake the administration of an international agreement dealing with restrictive business practices had been discussed at the Ninth Session. As action on the matter was still under consideration by the United Nations Economic and Social Council, it had been decided to refer the question to the present Session, and the Executive Secretary was asked to submit a report on discussions in this field. The Economic and Social Council had not yet proceeded with the promotion of an international agreement on restrictive business practices and the Executive Secretary had suggested in his note that the CONTRACTING PARTIES might, in these circumstances, wish to delete the item from the Agenda.

Mr. KOHT (Norway) said that the Scandinavian delegations had put forward a proposal for dealing with the problem during the Review. For the reasons stated by the Chairman and because of the heavy workload at the time, it had been decided to postpone consideration of the item to the present Session. In Resolution 568(XIX), promulgated in May of this year, the Economic and Social Council had recognized that, although expressing continued concern, it was not yet able to promote an international agreement in this field. The question was, however, an important one. With world production and competition both

growing, so also was the field for restrictive business agreements. This was of particular concern to small and less highly developed countries. The Scandinavian proposal at the Review was independent of the Council resolution and not disposed of by it. It was for the CONTRACTING PARTIES to see whether they might achieve a result where others had failed. He recognized, however, that further time might be needed to study the matter and would not object to the item being deleted from the Agenda of the present session on the assumption that consideration of it would be deferred to the Eleventh Session.

Mr. PHILIP (France) said that his Government was interested in a solution to the problem of restrictive business practices and had actively participated in the work done on it in the international field. In their view, the Economic and Social Council seemed to be the most appropriate Organization in which the matter should be studied, whereas the CONTRACTING PARTIES were most qualified to implement and apply the convention once drawn up by the Council. Examination of the matter by the CONTRACTING PARTIES was, therefore, dependent upon the drawing up of a convention by the latter.

In his note the Executive Secretary had reported the Council's action which was not encouraging and amounted in fact to adjournment sine die. The conditions for debate by the CONTRACTING PARTIES were not therefore fulfilled. The item should not, however, be deleted from the Agenda as the Council had not rejected the convention and had requested governments to take the internal action which was a prior requirement. Regional action might also be envisaged as a preliminary step. The CONTRACTING PARTIES should indicate their continued interest and belief that they were the qualified Organization to implement a convention by retaining the item on the Agenda, and deferring consideration to the Eleventh or, if necessary, subsequent Sessions if the Council had not taken action.

Mr. SAHLIN (Sweden) associated his delegation with those of Norway and France and supported retention of the item on the Agenda for the Eleventh Session.

Mr. KRISTIANSEN (Denmark) also supported this view.

The CONTRACTING PARTIES agreed that the item should appear on the Agenda for the Eleventh Session.

3. United Kingdom waiver - Article I (L/431)

The CHAIRMAN said that the second annual report by the United Kingdom was before the meeting and that, since the submission of the last annual report, action had been taken on two items, namely, certain flowers and wood-wool.

Mr. SANDERS (United Kingdom) observed that the list was a short one on this occasion and he expressed the appreciation of his delegation at the co-operation shown by the countries concerned.

Mr. KOHT (Norway) said that the report was correct but did not wish it to be understood, from the reference in paragraph 5 to formal discussions followed by agreement that the waiver should apply, that his Government were happy with the tariff increase on wood-wool.

Mr. KASTOFT (Denmark) said that his Government had been dissatisfied with the granting of the waiver and their view had not changed. The question was linked to the principle of imperial preference and Denmark opposed preferences. The system had originally been introduced as an emergency measure parallel to the introduction of other types of measures for which much progress had since been made in their elimination. It was true that the United Kingdom had used the waiver only to a limited extent. Nevertheless, it was an example of increased protection in agriculture, or the substitution of one form of protection for another. He hoped that the United Kingdom had now used the waiver to the extent needed and would soon contemplate its withdrawal. A decrease in the number of waivers was to be aimed at.

The CONTRACTING PARTIES took note of the report.

4. United Kingdom waiver - Overseas Territories (L/432)

The CHAIRMAN introduced the first annual report by the Government of the United Kingdom which stated that no action had been taken under the waiver.

Mr. MACHADO (Brazil) said that perhaps as a result of a technical formality it could correctly be stated that no action had been taken so far. He wished, however, to discuss rather a more general aspect. With so many waivers and annual reports thereunder, it was essential for their proper consideration that commentary should be provided indicating the actual impact on channels of trade, terms of trade etc. For this the CONTRACTING PARTIES should call on the secretariat and he would propose, even though additional cost was entailed, that all reports submitted on waivers by governments be accompanied by comments by the secretariat on the actual consequences of the action taken, regarded in the light of the objectives of the Agreement.

The CHAIRMAN said that note would be taken of the remarks of the Brazilian delegate and requested governments who had been granted waivers to append the relevant statistical material which might assist consideration of their reports. The secretariat would consider in what way it could supplement the reports.

5. Swedish Anti-Dumping Duties (L/386)

The CHAIRMAN expressed his gratification at the abrogation of the regulations under the Swedish anti-dumping laws which had given rise to the complaint by the Government of Italy.

Mr. SAHLIN (Sweden) said that the special regulations with regard to the imposition of anti-dumping duties which were the subject of a complaint by the Government of Italy at the Ninth Session had been abrogated on 10 July.

Mr. NOTARANGELI (Italy) thanked the Swedish Government for the action they had taken and the CONTRACTING PARTIES for the interest they had shown in the problem at the last Session.

The CHAIRMAN said this item could thus be considered satisfactorily disposed of.

6. Registration of Instruments (L/367/Rev.1)

The CHAIRMAN said that the Executive Secretary had submitted for approval (L/367/Rev.1) a resolution which would authorize him to register with the Secretariat of the United Nations the instruments deposited with him on behalf of the CONTRACTING PARTIES.

The resolution was adopted.

The meeting adjourned at 12.10 p.m.

