GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
SR.10/4
5 November 1955
Limited Distribution

SUMMARY RECORD OF THE FOURTH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 31 October 1955 at 2.30 p.m.

Chairman: Mr. L. Dana WILGRESS (Canada)

Subjects discussed: 1. Belgium, Luxemburg waiver requests
2. 1956 Negotiations

1. Belgium, Luxemburg Waiver Requests

The CHAIRMAN said that in June the Governments of Belgium and Luxemburg had submitted requests for authority to maintain certain import restrictions, and the Intersessional Committee was convened especially to deal with these requests. A working party, appointed by the Committee, produced a report (L/372) and the action of the Committee was recorded in its report to the CONTRACTING PARTIES (L/439). The Chairman recalled that the Working Party which the Committee appointed to examine these requests considered it would be necessary to have additional information and therefore recommended that the question should be deferred and be taken up early in the present Session after the Governments of Belgium and Luxemburg had supplied further information.

Belgian waiver request (L/357 and Add.1-5, L/372)

Mr. FORTHOMME (Belgium) said that the basis of the Belgian request for the waiver from the provisions of Article XI was developed in a considerable number of documents, including the replies to the questionnaires drawn up by the Working Party and annexed to their report (L/372) as Annexes A and B. The basic reasons were set out in L/357/Add.1. The particularly Belgian aspects as well as those which derived from the Benelux Union were treated in detail in the documents supplied.

The Belgian Government was pursuing three principal objectives, apart from the purely internal objective of securing stability of its agriculture and fishing industry: first, to make Benelux a complete economic union; secondly, to remove protective measures not in conformity with the Agreement within a definite period, and thirdly, to ratify the revised Agreement and OTC. The Belgian request only slightly exceeded the framework established by the Agreement and the Decision of 5 March 1955. The goodwill which the Belgian Government had shown had been recognized, and it hoped that recognition would also be accorded

by the CONTRACTING PARTIES to the difficulties to be resolved if Belgium were to maintain its cooperative attitude.

The Belgian Government was facing the difficult problems of a small country with a limited market and high productivity, attempting to conform in its trade policy to liberal rules which many countries had found it hitherto impossible to apply. By its action it hoped to show that no problems of adaptation to the provisions of the General Agreement were insoluble. For this reason the form of the waiver application had been carefully considered and the time limit requested corresponded to the realities of the situation. In its immediate application the waiver would not have the effect of rendering the present position of other contracting parties less favourable and their position would improve as restrictions were progressively removed as the time limit elapsed.

The full text of the Belgian delegate's speech is reproduced in W.10/4.

Mr. NOTARANGELI (Italy) said that the Italian delegation had carefully examined the documentation supplied by the Belgian Government with regard to the waiver request. The Italian delegation had already clearly conveyed to the CONTRACTING PARTIES their view on the legal and formal aspects of the request. He would repeat that the Italian Government was in principle against the granting of a waiver of this kind. Such waivers, if granted, would constitute a serious obstacle not only to the realization of the general objectives of the GATT, but also to the economic integration of Europe and the freeing of European trade. Nevertheless, the Italian delegation were prepared to examine the Belgian request within the framework of the hard-core Decision. In this connexion it regretted to state that the documentation submitted to date in reply to the questionnaires did not contain any definite information as to the policy of gradual reduction of the restrictions. Moreover, the reply to the question as to the period required for the complete removal of the restriction was not satisfactory in that it simply referred to the period of seven years envisaged in the Benelux Ministers' decision of 3 May 1955 which had been taken outside the GATT framework.

Mr. KRISTIANSEN (Denmark) said that when the question of granting a waiver to Belgium was discussed in the Intersessional Committee, the Danish representative had stated that, as a matter of principle, Denmark could not agree to deviate from the provisions of the hard-core waiver. The additional information since supplied by Belgium to the Intersessional Committee had not made his Government change their position. Being a country largely dependent on its exports of agricultural products, Denmark had a substantial interest in all questions relating to trade in such products, and had frequently found it necessary to defend the principles of the GATT, especially in this field. It had come as a surprise to his delegation that Belgium had not submitted her request under the terms of the hard-core waiver, but wanted a waiver going beyond the Decision of 5 March 1955 which the Danish delegation to the Review Session had only accepted reluctantly on the understanding that the framework

established represented the maximum discretion which the CONTRACTING PARTIES would use to meet exceptional circumstances in connexion with the abolition of quantitative restrictions for balance-of-payments reasons. If this case could not be handled within the framework of the hard-core waiver, the authority of this important part of the revised Agreement would be undermined and the delicate equilibrium, established at the Review Session disrupted. It was with regret that the Danish delegation had to take this negative position to the Belgian request, but it would be prepared to give sympathetic consideration to any request formulated within the framework of the hard-core waiver. There were certain questions they would wish examined in the Working Party, mainly concerning the list of commodities, according to their status in intra-Benelux trade and those for which Belgium had substantial exports, possibly under an export support scheme. They would also wish to consider the possibility of a gradual limitation of the waiver pari passu with the planned relaxation of quantitative restrictions inside Benelux.

Mr. ANNIS (Canada) shared the fears and doubts expressed by the Italian and Danish delegates. The GATT Provisions prohibiting quantitative restrictions except for balance-of-payments reasons had been somewhat modified at the Review Session, but, as part of the general process of relaxing restrictions the hard core waiver had been agreed to. A waiver going beyond this would upset the delicate balance achieved at the Ninth Session. The requirements laid down in the Decision and which were essential elements of any waiver under it were the time limit, the provision of plans for eliminating the restrictions, and consideration of the effect on other contracting parties. The Belgian problem was complicated by its special relation to its partners in Benelux. A certain reconciliation would have to be effected to bring the present request within the terms of the hard-core Decision. The Canadian delegation felt this was essential as the Agreement must not be administered so as to upset the balance of agreement reached by the CONTRACTING PARTIES, nor so as to create unfortunate precedents. The Belgian delegate had said that the measures contemplated could be eventually eliminated. He hoped that it would prove possible for the working party to receive the assurances required to grant this request under the hard-core waiver.

Mr. de SAINT-LEGIER (France) said that at the Intersessional Committee in June the French delegation had supported the request of the Belgian Government and he would merely recall the essential elements of their position. In their view the request was not contrary to the General Agreement and, if granted, would not be of a nature seriously to injure the interests of the contracting parties. Concerning the legal position, it was clear that the hard-core Decision had not been intended to cover all cases which might give rise to a request for a waiver. He referred in this connexion to paragraph 76 of the Working Party report (3rd S., p. 192) where it was stated that the adoption of the Decision would not preclude any contracting party from availing itself of the provisions of Article XXV:5(a). Moreover, if the CONTRACTING PARTIES had wanted to eliminate in certain cases direct recourse to Article XXV and modify the waiver procedure, they would have proceeded by way of amending the Agreement. This they have not done and the adoption of

a decision could not constitute an amendment to the fundamental rules of the Agreement. On the important point of the duration of the waiver requested by Belgium, it was clear that the provisions of the Decision of 5 March, could not give them satisfaction. There was no reason, in the view of his delegation, to force the Belgian case into a mould which was clearly not made for it. There had been at least one case where no solution was possible within this Decision and where no difficulty of principle finally prevented granting of a waiver directly within the terms of Article XXV. Concerning the question of the effects of granting the request, he recalled that the measures were temporary and would be progressively reduced. Moreover there was no question of new measures but only the maintenance of existing ones well known to the interested contracting parties. The French Government were certain that Belgium would use the facilities in a manner which would not seriously affect the interests of the other contracting parties. For these reasons and in the interests of the understanding which should regulate relations between contracting parties, they hoped satisfaction would be given to the Belgian request without forcing it into a method not suitable to it.

Mr. LEDDY (United States) said that it was inevitable that this case would set a precedent, both in the method used and result achieved. The principles of the Agreement should be observed, and tolerance and understanding shown for the special position of the country involved. The hard-core waiver was an integral part of the series of understandings reached at the Ninth Session. It was essential to adhere to its general lines. While assuring the integrity of the waiver, the Agreement should be administered so as to support and encourage the further development of the Benelux Customs Union.

In the documents provided there were some gaps bearing upon the criteria laid down in the waiver. Further information was needed on measures which had already been taken or were contemplated to eliminate the need for the waiver; on the relation of the restrictions to the domestic industries concerned; on the relation of the measures to the maintenance and development of Benelux; on the extent to which restrictions applied on a non-discriminatory basis to countries other than those within the Customs Union and on the size of the quotas. The United States direct interest was limited but they had a broader concern with respect to the operations of the Agreement.

Mr. WARWICK SMITH (Australia) also felt that the Decision of 5 March was an integral part of the balance achieved at the Review Session. Australia was concerned to prevent a position where agricultural protection became entrenched through the extended use of quantitative restrictions. The Australian delegation continued to consider that the request should be examined in the terms of the Decision of 5 March rather than under Article XXV:5(a). The examination by the Intersessional Committee had brought out certain difficulties some of which arose out of the existence of the Customs Union and he would wish to see these further investigated. There was also the question of the duration of the waiver where more elucidation would be required as well as certain technical problems involved. The Australian Government was not opposed to the Belgian application as such, but was concerned that the

principles agreed at the Review Session were carried into effect.

Mr. PHILLIPS (United Kingdom) referred to the technical difficulties resulting from the wide range of products covered. There was the further complication of Belgium being a member of the Benelux. He felt that it was not possible to make much more progress until the Working Party had studied the matter further and considered that the investigation begun by the Working Party and Intersessional Committee should be carried further, as the matter was of importance as a precedent. He hoped that it would be possible to solve it within the terms of the hard-core waiver.

Mr. VALLADAO (Brazil) observed that at the last Session other countries had obtained waivers although they did not have balance-of-payments difficulties neither was there a time limit nor restrictions as to the measures involved contained therein. It seemed carping in the Belgian case to object to the period of seven years requested. In any case the volume of trade involved was small. His delegation were in sympathy with the Belgian request.

Baron BENTINCK (Netherlands) said that his country was the contracting party most interested in the restrictions involved. There were structural factors in the formation of an economic union that must be taken into account. Belgium was traditionally an importing country, while the Netherlands was an exporter, and in the future it appeared that the Customs Union would be an exporter. In the meantime there must be some restrictions on trade, a fact which the two Governments involved had accepted, as shown by their recent agreement. The Netherlands felt that Belgian policy was moving in the right direction, at a reasonable speed and with due regard to the interests of international trade. He supported the Belgian application.

Mr. DUHR (Luxemburg) supported the application. Belgium had always followed a liberal trade policy and if they now requested a waiver it was because they saw no other means to overcome their difficulties.

Mr. FORTHOMME (Belgium) thanked those who had spoken and emphasized once more what he had already said about acceptance by Belgium of the full obligations of the Agreement and how much this depended on the action taken by the CONTRACTING PARTIES on this request. With regard to the number of products involved, he pointed out that the total amounted to less than 10 per cent of Belgium's imports. As to a lack of a plan for the elimination of these restrictions, the decision of the two Governments in May represented a recognition that the plans which had been attempted in the previous ten years to harmonize the structure of Belgian and Netherlands agriculture would not solve the problem. They were now turning in a different direction. Had they waited for a plan to be drawn up, more years would have elapsed before they could begin to do anything about the restrictions. Attention had been called to the problems arising out of the existence of the Customs Union. Any such problems would only relate to the duration of the requested waiver. Otherwise the Union conformed to Article XXIV. With regard to the time limit, his Government had asked for a different period of time because they saw no means

of doing otherwise. In connexion with the importance of this case as a precedent they were bringing their request as far as possible within the framework of the hard-core Decision. In any event, the peculiar circumstances of the Belgian case were unlikely to be repeated. They hoped that the final decision of the CONTRACTING PARTIES would demonstrate that they were able to be flexible when the situation of a particular country could not be brought wholly within the Decision.

The CHAIRMAN thought the debate had shown recognition of the importance of this item. The need to proceed with care had been stressed as also concern over going beyond the framework of the hard-core Decision. On the other hand, the French representative had referred to the legal position. Attention had also been called to the technical difficulties. More information appeared to be required particularly in connexion with the policy for the elimination of such restrictions. All of these were matters which the working party to be set up to consider both the Belgian and Luxemburg requests should take into account.

Luxemburg Waiver Request (L/358 Add.1-4)

Mr. DUHR (Luxemburg) referred to the Ninth Session report on the hard-core waiver where it had been specifically stated (BISD, 3rd S.p.192, para.76) that the difficulties of Luxemburg could hardly be met under the Decision. Their waiver had therefore been based on Article XXV:5(a) and in a series of documents (L/358 and addenda) and oral explanations to the Intersessional Committee, they had explained the major reasons and defined the scope of the request. He wished only to recall now that the request was to obtain within the GATT the same régime which had existed in the Economic Union since 1935 and in the Benelux Customs Union since it began. This was a matter that was vital for Luxemburg and would not injure other contracting parties.

It was agreed to refer the Belgian and Luxemburg requests for waivers to a working party with the following membership and terms of reference:

CHAIRMAN: Mr. de Besche (Sweden)

Members:

Australia	France	Italy
Belgium	Germany	Luxemburg
Brazil	Greece	Netherlands
Canada	Haiti	United Kingdom
Denmark	India	United States

Terms of Reference:

To continue and complete the examination of the requests by Belgium and Luxemburg for authority to maintain quantitative restrictions on certain agricultural and fisheries products and to submit recommendations to the CONTRACTING PARTIES.

2. Arrangements for 1956 Tariff Negotiations (L/408)

Mr. KOHT (Norway), Chairman of the Working Party, introduced the report of the Working Party. The report was the result of a compromise between divergent opinions within the Working Party, some of whose members felt that the new rules and procedures too closely resembled those used on earlier occasions, while others felt that too much new language might cause difficulties in interpretation. He felt that no better set of rules could be agreed upon at the present time. There was full agreement in the Working Party on certain basic principles; there was no doubt that it was now time to call a tariff conference and it was agreed that the tariff negotiations should be carried out on as broad a basis as possible and that the multilateral aspect of the negotiations should be stressed. The Working Party agreed that the negotiations should be governed by the principles of the new Article XXIX. The main difficulties of the Working Party lay in the preparation of a set of rules to implement these principles and to take the place of those in force during previous tariff conferences. A full account of the discussions was contained in the Interim Report issued in July (L/373). It early became apparent that no radical departure from the previous rules could be agreed upon. Thus the proposed rules were based on the product-by-product system which was, he knew, a matter of regret for some members of the Working Party who desired the adoption of a multilateral plan for automatic reductions along the lines of the GATT plan.

For the purpose of strengthening the multilateral aspect of the negotiations, the Working Party agreed that each participating government should present a consolidated offers list and that the role of the Tariff Negotiations Committee should be broadened so as to include inter alia the possibility of arranging for multilateral negotiations when these might be expected to improve the scope of the concessions. The Working Party also agreed that governments should co-operate by making overall concessions commensurate with the overall concessions received. The Working Party did not propose any mathematical formula to cover the results but they wished to avoid a purely bilateral balancing of concessions.

The Working Party laid particular stress on the principle embodied in Article XXIX:2(a) that the binding against increase of low duties or duty-free treatment should be recognized as a concession equivalent to the reduction of high duties. This rule took account of the special position of the low-tariff countries.

Mr. Koht referred to the position of the French Government, which had stated that it was not in a position to participate in the negotiations with contracting parties other than the United States. This was a matter of regret to other members of the Working Party, since it would limit the scope of the tariff conference if one of the major trading nations stood apart from the general negotiations and he quoted, in this connexion, Article XXIX:2(b) to the effect that "the success of multilateral negotiations would depend on the participation of all contracting parties which conduct a substantial proportion of their external trade with one another."

Mr. BENES (Czechoslovakia) said that his Government had, after consideration, concluded that they had no requests to make to any contracting party and had not, therefore, intended to participate in the negotiations. In the meantime they had received a request from Ceylon and were prepared to enter into negotiations regarding those items. Should any other contracting party have any requests to make they would be ready to consider it.

Mr. KRISTIANSEN (Denmark) wished to restate his Government's views and to refer in particular to the objective of reducing barriers to trade. All members were theoretically under the same obligations with regard to quantitative restrictions but this was not so in the tariff field. In fact, the disparity between levels of duties in the low tariff countries and in other contracting parties was hardly smaller than when the GATT had come into existence. There was no logical need for this situation to continue indefinitely nor for co-operation among contracting parties in the field of tariffs to be more imperfect than in the case of other barriers to trade. To combat this, his Government was particularly in favour of the method of reduction of tariff levels. Low tariffs, in their view, were, except for special problems which might arise in connexion with industrial development, of advantage not only to the trading partners of a country but to the country itself. The economic status of low tariff countries would seem to support this view. Closer economic co-operation to which all contracting parties were pledged must include gradual reduction of tariff barriers. The three tariff conferences, while yielding valuable results were unable to make headway with regard to this main problem and it became clear that, the existing methods and procedures being unlikely to yield in the future substantial results, measures must be elaborated with a view to bringing about a reduction in the disparity of tariff levels and in unreasonably high tariffs. An intersessional Working Party was appointed which produced a report containing a specific proposal but the plan was not accepted. During the review Session the low tariff countries made further efforts to improve on the provisions of the Agreement dealing with tariffs and negotiations procedures and it was still a matter of regret to his Government that some of the large trading nations were unwilling to subscribe to suggestions that were made. They had, however, hoped that, with the intersessional Working Party which was established, the major trading nations would reconsider their position and be able to co-operate in the attempts to find a way out of this difficulty.

The proposals contained in the report now under consideration were not satisfactory. It was unlikely that the 1956 Tariff Conference would open the way to any appreciable progress towards the objectives he had referred to, and the proposed rules of procedure contained no provisions to ensure that a decrease in the disparities in tariff levels could be obtained through the negotiations. The Working Party's report showed that a majority of its members favoured the application of multilateral procedures, along the lines of the GATT plan. However, the low tariff countries had had to accept such procedures as were acceptable to the major trading nations unless they chose to abstain from the Conference. Their choice was made under protest. Although the United States authority was limited and certain European countries had indicated limited participation, Denmark would take part and co-operate in an effort to assure the best possible result. They thought it essential to make the most of the

suggestions for improving the old rules and procedures. It was in their view of particular importance that each participating country submit a consolidated list of offers at the opening of the Conference and that the Tariff Negotiations Committee have broader functions so as to strengthen the multilateral aspect. He hoped that all delegations would agree that the review of the offers list should take place only a few days after the opening and that the Committee should examine them carefully and not hesitate to make from the outset recommendations based on Article XXIX. The low tariff countries attached particular importance to the rule regarding the equivalence of binding of low duties with reduction of high duties. He hoped that the strengthening of the Tariff Negotiations Committee would improve the position of low tariff countries in this respect and that participating Governments would instruct their representatives to pay due regard to this rule and to the special position of low tariff countries.

He referred to the great interest with which the Danish Parliament and public had followed the efforts made under the Agreement and to criticism which had lately been voiced because of the small prospects of general progress toward tariff reduction at a time when, as quantitative restrictions were abolished, the disparity between tariff levels was becoming more serious. Parliament had also been concerned because of the several instances where general GATT obligations had been defeated when they clashed with the interests of other contracting parties whose markets were important to Denmark.

In the circumstances there appeared to be good reasons to continue the work on the GATT plan in order that it might be finalized before perhaps the Twelth Session. His delegation knew that this plan met with the approval of a number of member countries and hoped that when the Tariff Conference was ended the Governments which had so far been unable to accept it would not forget that the tariff problem still existed. On the contrary, he hoped that those Governments would direct their attention to ways and means by which the problem might be met over a longer period in a constructive and effective manner.

Mr. L.L.JHA (India) referred to the concern expressed by the Danish delegate and felt by the low tariff countries at the fact that a multilateral reduction of tariffs had not found favour with the Working Party. It was true that the plan was supported by a number of countries although the volume of trade represented by them was not so large. He sympathized with the low tariff countries but it should not be forgotten that they had chosen this policy not because of their GATT membership but in the light of the best interests of their countries. They must understand that other countries, motivated by similar considerations, could reach different conclusions. The analogy of quantitative restrictions and the tariff was not exact and if this line of reasoning were pursued, the rate of exchange also had a bearing on exports and imports. It could not be said that membership of the GATT ruled out protectionism, rather that contracting parties should work within its framework to end it. The Indian delegation associated itself with those who had favoured product-by-product negotiations.

Turning to the rules annexed to the report, Mr. Jha referred to rule 11(c) which provided that participating governments would be expected to take into consideration the indirect benefits which they would receive from the negotiations between other Governments. In this connexion it must be remembered that not all the contracting parties were going to negotiate, yet the indirect benefits resulting from the Conference would apply to all of them. It was illogical that the participating countries should be expected to pay for indirect benefits that non-participants would receive without negotiating. Direct concessions must, of course, be balanced but the principle of balancing indirect ones should not be pushed too far. With regard to the method of negotiation, recognition had been given in rule 11(c) to the principles of the new Article XXIX concerning the equivalence of binding low duties with the reduction of high ones. But there was here another problem in that a concession given on a primary product was not as important as the same concession on a manufactured or finished article. Most industrial countries in their own interest had low duties on raw materials and their lists of offers to under-developed countries were largely composed of primary products. On the other hand the concessions requested of under-developed countries were on manufactured goods. Recognition of this type of disparity should have been spelled out in the report and this was a matter to which under-developed countries attached importance.

Mr. MACHADO (Brazil) referred to the inability of his Government to participate in the negotiations for reasons which had already been made known to the CONTRACTING PARTIES, all the more regretted since Brazil believed that the Organization should operate on a multilateral basis with the participation of all contracting parties. Nevertheless the rules and procedures as adopted for the negotiations would be important as precedents and his delegation attached great importance to the observations of the Indian delegate with regard to the equivalence of tariff reductions by an industrial country and by an exporter of primary commodities. Structural differences between countries had resulted in the modification of Article XVIII and this factor must be taken account of at the forthcoming negotiations. Mr. Machado also enquired what would be the position of observers at the Conference.

The CHAIRMAN replied that observers would have the same rights as at meetings of the CONTRACTING PARTIES; they could attend the Tariff Negotiating Committee and take part in the discussions without the right to vote. They would receive documentation with the exception of the lists of offers.

Mr. FORTHOMME (Belgium) supported the views expressed by the Danish delegate and hoped that the Tariff Negotiations Committee would bear in mind particularly the rule regarding the multilateral character of the negotiations and that concerning the equivalence of binding of low and reduction of high duties.

Mr. DONNE (France) in reply to a question of the Austrian delegate, said that the report of the Intersessional Working Party made clear the French position with regard to its participation in the Tariff Conference. The French

Government had notified the Executive Secretary of its intention to limit its participation to negotiations with the United States. Certain members of the Working Party had expressed the hope that the French Government would reconsider its position, and these views had been passed on to his Government which had, however, not been able to reverse its decision. The French Government regretted that the plan of an automatic reduction of tariffs had been abandoned. Bilateral negotiations on tariff concessions were only possible to countries which really had something to exchange and the procedure proposed by the Working Party had given rise to a certain anxiety. Low tariff countries could not participate effectively in the negotiations despite the assurances concerning binding of low duties. Under-developed countries on their side, had nothing to request as primary commodities enjoyed low tariffs or free entry, and their own rates of duty could only be reduced with difficulty in view of their fiscal and protective nature. In these conditions the negotiations would in fact be limited to a small number of countries; moreover certain of those participating had made reservations which would further limit the scope of the negotiations.

These disadvantages would have been removed by adoption of the plan for automatic reduction of tariffs but regret at its abandonment was not the only justification for the position taken by his Government, which was influenced in large measure by the efforts it was making toward the solution of certain problems which would make its participation more difficult. His Government intended as the CONTRACTING PARTIES were aware, in the near future to form a customs union of all the territories of the French Union. The conventions which had been established between France and Tunisia had instituted a customs union which would shortly enter into force and were the first stage in this process. The incidence of the Tunisian tariff was lower than the French and the unification of the two tariffs would oblige France to lower certain duties in accordance with the terms of Article XXIV of the General Agreement. France would thus shortly be granting reductions in duties of advantage to all contracting parties without any request for compensation. The Franco-Tunisian Customs Union was only the first step in this process and the entry of each new territory would oblige the metropolitan area to agree to new concessions in its own tariff. The extent of the French offers in this field explained and justified its abstention from the tariff negotiations.

It was agreed to resume this discussion at the next meeting.

The meeting adjourned at 5.05 p.m.