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GENERAL AGREEMENT ON TARIFFS AND TRADE

CONTRACTING PARTIES
Tenth Session

SUMMARY RECORD OF THE NINETEENTH MEETING

Held at the Palais des Nations, Geneva, on
Thursday 1 December 1955, at 2.30 p.m.

Chairman: Mr. L. Dana WILGRESS (Canada)

Subjects discussed:
1. United States Waiver - Working Party Report
2. Italian Turnover Tax
3. Commodity Problems

1. United States Waiver Working Party Report (L/464).

Mr. KOHT (Norway), Chairman of the Working Party, introduced the report. He stated that the Report had concentrated on more general questions, which arose as a result of the examination of the United States report, and particularly cotton, wheat and dairy products, although during the Working Party's discussions considerable time had been devoted to questions to and answers by the United States representative on various technical and statistical matters. The report also touched on the problems created by the accumulation of surplus stocks of some of the commodities in question. (Paragraphs 8 and 9). This was a matter that some members of the Working Party would have wished to go into more thoroughly and a discussion took place on some aspects of the problem but the United States' representative had felt that it was not appropriate to deal with this question in the Working Party report which should confine itself to the problems more directly connected with the import restrictions themselves.

The Working Party also considered the question of the United States import restrictions on dairy products dealt with by the Resolution of 5 November 1954, and found that the report submitted by the United States under the waiver of 5 March 1955 adequately met the requirements of a report under the earlier resolution. The Working Party also agreed to recommend that the Netherlands be authorized to invoke Article XXIII and to apply a limit of 60,000 metric tons of imports of wheatflour from the United States during 1956.

Mr. LEDDY (United States) requested that, after the CONTRACTING PARTIES had taken action on the Working Party's Report, they authorize the derestriction of the United States Report under the waiver (L/443). He did not intend to issue

a press release but wished to be able to transmit it to persons who might request it.

Mr. ARWICK SMITH (Australia), referred to his statement at the earlier discussion (SR.10/9, page 94) regarding the importance Australia attached to the annual reports under the waiver. His delegation had noted the Working Party's recognition (paragraph 2) of the removal of certain restrictions and of the fact that no intensification of controls had occured. He attached particular importance to the emphasis of the Working Party on the concern of other countries regarding an opportunity to sell in the United States' market (paragraph 7) and its expression of hope that progress would be made in relaxing restrictions on dairy products where no relaxation had thus far been introduced (paragraph 8).

Mr. KASTOFT (Denmark), associated himself with the statement of the Australian representative and attached importance to the same points of the Report.

The CHAIRMAN, replying to a comment by the Brazilian delegate on the derestriction of the United States Report, emphasized that derestriction did not necessarily involve a press release. Information on this subject to be given to the press would be included in the general round-up issued at the end of the Session.

The Report of the Working Party was adopted; the CONTRACTING PARTIES agreed that the United States report under the Decision of 5 March 1955 fulfilled the requirement of a report from the United States under the Resolution of 5 November 1954; they authorized the Government of the Kingdom of the Netherlands to suspend the application to the United States of its obligations under the General Agreement to the extent necessary to allow it to apply a limit of 60,000 metric tons on imports of wheat flour from the United States during the calendar year 1956.

The CONTRACTING PARTIES also agreed that the United States Report under the waiver (L/443) be derestricted.

2. Italian Turnover Tax (L/421)

The CHAIRMAN referred to the United Kingdom complaint, discussion of which had been deferred at the fifth meeting of the Session (SR.10/5 page 52) pending the outcome of consultations between Italy and the United Kingdom.

Mr. NOTARANGELI (Italy), said that the administrative departments of his Government had examined the United Kingdom communication, and he was instructed to say that as from 1 January 1956 the turnover tax on imported pharmaceutical products would be reduced from 6 per cent to 5 per cent. Administrative measures to this effect were presently being taken. He thought this would meet the complaint of the United Kingdom.

Mr. PHILLIPS (United Kingdom), expressed his satisfaction at the statement by the Italian representative and hoped that the action which was being taken by the Italian Government would lead to a satisfactory solution of this problem.

The CONTRACTING PARTIES noted the action proposed by the Italian Government to remedy the situation.

3. Commodities (L/416, W.10/35)

The CHAIRMAN referred to the earlier discussion of the report of the Working Party on Commodity Problems (Sr.10/13 and 14) when consideration had been suspended in order to permit time for private discussion of certain outstanding differences of view concerning the draft Agreement annexed to that report. Since then the Chairman of the Working Party, Mr. Peter, had been in continuous touch with various delegations. As a result of discussions, a substantial measure of agreement had been reached on most of the outstanding differences and a draft of amendments had been circulated (W.10/35). There remained two fairly important points on which disagreement still existed with a number of delegations on either side. It was hoped that as a result of today's debate it might be possible to decide that enough progress had been made to enable resolution of these remaining problems to be foreseen in time for final action at the Eleventh Session of the CONTRACTING PARTIES. The Chairman emphasized that the discussion should confine itself to the general principles involved.

From the earlier debate it was apparent that most contracting parties felt it would be unwise to attempt to submit an agreement to governments in final form before there had been more opportunoty for study and comment, particularly by governments who were not contracting parties. The present debate, therefore, was for the purpose of deciding whether the draft Agreement, and suggested amendments represented a sufficient basis to permit the remaining outstanding difficulties to be resolved in the near future. If the CONTRACTING PARTIES decided that this was the case, they should then decide on a procedure to permit further consultations on the outstanding issues, to receive and consider further comments of governments, including non-contracting parties, to improve the drafting, and to decide on the methods to be used in approving the final text and opening it for signature. There would be ample opportunity at a later stage to raise drafting points and points of minor substnace. The attention should now be concentrated solely on any serious difficulties that would be caused by the draft Agreement as submitted by the Working Party and on the compromise amendments that had been worked out since the earlier meeting.

M. PETER (France), Chairman of the Working Party, introduced the compromise texts (W.10/35) which he had submitted for Articles X:1(a), X:1(c), XXIII, a new Article on regional arrangements and an understanding on an escape clause for balance-of-payments difficulties. He had found in his consultations with various delegations a spirit of conciliation and a general

feeling that it was desirable to reach some kind of agreement. Notable among the proposals designed to reconcile conflicting views was that of Mr. Vargas Gomez of the Cuban delegation. Although delegates had not been able to accept his proposal, it had been useful in pointing the way to a solution of the various difficulties. Two problems had not been wholly resolved in these discussions, the question of existing agreements which did not conform to the Economic and Social Council resolution and the question of regional arrangements. It seemed to him, however, that with a little more time agreement could be reached also on these matters.

Mr. PHILLIPS (United Kingdom), welcomed the progress made since the last discussion towards resolving the outstanding difficulties and removing misunderstandings. Some difficulties still remained as certain delegations had felt obliged to reserve their position on certain aspects of the draft Agreement to which the United Kingdom attached particular importance. It had so far proved impossible to find a solution to the problem of regional arrangements and of international communities designed to bring about the integration of national economies. The discussions of the past two weeks had, however, brought agreement nearer, and he believed and hoped that it might yet be possible for further progress to be made by further consultation between the delegations most directly concerned. However, he had to recall his delegation's earlier statement of its attitude towards the draft to the effect that it represented the bare minimum that the United Kingdom could accept as necessary to achieve the objectives as it had always envisaged them. This was still their position. If the problem of regional arrangements could be solved, he would be able to regard the draft as a satisfactory basis, but he would not be able to agree to any further weakening of the agreement either in content or structure. Subject to this, the United Kingdom would be prepared to help in bringing about a successful conclusion.

Mr. WARWICK SMITH (Australia), although they had not had time properly to consider the amendments proposed by the Chairman, did not feel that these were changes such as would lead his delegation to alter significantly the views they had already expressed. What was to be done in the future depended upon the degree of agreement that might be expressed in this debate on the special agreement and the amendments proposed, and his deleagtion certainly had no wish to close the door to further efforts to find a generally acceptable draft. He would not object to some intersessional arrangement for continued study; if this were decided upon and it were decided to circulate the draft agreement to non-contracting parties, the Australian delegation would agree provided a clear statement of the views which had been expressed in the debate accompanied the draft. Perhaps the summary records of the discussions could be attached.

Mr. KLEIN (Germany), referred to his earlier remarks on this subject when he had expressed the agreement of his Government to the proposal to create an appropriate organization to deal with commodity questions. He had also

emphasized at that time that his Government considered the operation of the free-market forces as decisively important for a sound development of production and supplying of primary commodities. There was, however, no reason preventing Governments from considering measures and taking action to intervene where the free-market forces alone were not sufficient - this view was laid down in Article 57 of the Havana Charter, but unfortunately included in Article I of the draft agreement only in a weakened form. Much valuable work had been done on this draft and clearly the CONTRACTING PARTIES could not remain uninterested in the commodity question. He felt that the draft and the amendments proposed could serve as a useful basis for future consideration. It was still necessary for Governments to examine these texts in detail. Further discussion was also necessary with interested international organizations and non-contracting parties. Moreover, it was desirable that close co-operation between the SACA and the GATT be established. The former should regularly report on its activity to the CONTRACTING PARTIES as provided for in Article XVI, and in this connection the possibility of consultations should be envisaged.

Mr. Klein, in the name of the six Member States of the European Coal and Steel Community, stated that in their view the following exceptions must be included in the special agreement: for the European Coal and Steel Community, for atomic energy organizations, for customs unions according to Article XXIV of the General Agreement, and for treaties and international agreements intended to enlarge the freedom of trade and to bring about the closer integration of the economies of the participating countries. In this sense the six Member States agreed to the proposals made by the Chairman of the Working Party and contained in W.10/26. They could not, however, agree to the amendment contained in sub-paragraph 4 of Article X:1(c) as set out in document W.10/35.

Mr. SWAMINTHAN (India), expressed the disappointment of his delegation that the proposed amendments by the Chairman of the Working Party did not solve certain particular difficulties of India - and of other tea producing countries. Their difficulty was connected with the provisions concerning the relation of existing agreements to the Special Agreement. The International Tea Agreement had been in existence for some twenty years, had worked well, and there had been no complaints that it was detrimental to anyone. This agreement was essential to the stability of tea production, an activity which gave employment to large numbers of people; its existence had made it possible to give workers in this industry some of the benefits, such as housing and health, which workers in more industrialized countries enjoyed. His Government was anxious to preserve this stability by continuing the agreement without limit or restriction. It was in any case a recognized principle of jurisprudence that legisltation should not be retroactive, and the creation of a new instrument in the commodity field should not have the effect of upsetting the established situation. Existing commodity agreements, whether or not they conformed to the Economic and Social Council's Resolution, should be exempted from the Special Agreement, and his delegation was instructed to claim that the Tea Agreement be exempted as of right. He proposed that Article X: 1( ) of the draft Agreement be amended by the deletion of the phrase referring to the Economic and Social Council Resolution. Subject to this amendment, his

Government would hope to find the draft Agreement acceptable.

Mr. RAZIF (Indonesia), expressed the appreciation of his delegation at the efforts to reconcile divergent interests, and found the amendments suggested by the Chairman of the Working Party an improvement over the old text. While there were still some points of difficulty to his Government, he thought the proposed amendments showed a way of reaching agreement and his Government would be prepared to participate in further discussions on this matter.

Mr. BARBOZA-CARNEIRO (Brazil), referred to the fact that the United Nations had delayed drawing up terms of reference for its Commodity Commission pending the CONTRACTING PARTIES' taking a decision on their responsibilities in this sphere. The position of the CONTRACTING PARTIES had been made clear at the Review Session when they decided not to enlarge the scope of the Agreement. No direct responsibilities had therefore been taken in the realm of commodities and this despite proposals of several contracting parties, including Brazil. Moreover, the unambiguous position of the United States on this subject put an end to any hope of the CONTRACTING PARTIES acting in this domain. Nevertheless, no formal communication had been made to the United Nations, and the Commodity Commission was still awaiting some pronouncement by the CONTRACTING PARTIES.

The fact that the CONTRACTING PARTIES had undertaken a study of this question by a Working Party could not be interpreted as meaning that they had undertaken responsibilities in this field. Such an interpretation would be contrary to the conclusions of the Ninth Session. It was clear from the action of the United States, which had not sent even an observer to the Working Party, that its deliberations did not fall within the obligations of the CONTRACTING PARTIES. The Brazilian delegation therefore proposed that the CONTRACTING PARTIES adopt a recommendation authorizing the Executive Secretary to communicate formally with the United Nations on this matter. It was essential to be clear that a solution was being envisaged outside the framework of the General Agreement. Firstly there was the attitude of the United States which had refused to intervene in commodity trade by means of multilateral agreement. They envisaged a system of bilateral action without nevertheless excluding the possibility of ultimately undertaking multilateral engagements in the light of circumstances or in particular cases. This attitude was understandable when one took into account the economic and financial power of the United States; but it limited the possibility of multilateral action as a solution to the commodity problem. It must of course be recognized that the United States was not absolutely hostile to multilateral solutions - they had adhered to certain agreements such as the Wheat and Sugar Agreements - but for reasons of internal policy wished to retain freedom of action. At the Ninth Session, despite the decision on the scope of the Agreement, certain contracting parties, in particular the United Kingdom, had decided that it would be useful to continue efforts to reach some kind of agreement on commodity trade outside the framework of the General Agreement. This had resulted in the creation of the Working Party, but in the view of the Brazilian delegation this working party

was not directly a working party of the CONTRACTING PARTIES. A draft agreement had been drawn up and it had been possible in recent days to eliminate certain fundamental differences. However, the text as set out at the present time did not permit his delegation to recommend it favourably to the Brazilian Government, for the following reasons: the subordination of regional agreements to prior approval by the SACA; the impossibility of accepting the clause on the representation of dependent overseas territories in begotiating conferences and commodity agreements, which was open not only to legal but to economic objections; the exclusion from the SACA of certain regional arrangements for integration such as the European Coal and Steel Community and the OEEC, and finally the omission of any clause permitting amergency action for balance-of-payments reasons.

The Brazilian delegation felt that the time had come for the CONTRACTING PARTIES formally to declare that they were not competent to take action in this field. Any conception of the activities of the CONTRACTING PARTIES as going beyond the scope of the provisions of the Agreement was unacceptable. Moreover, as to the efforts of governments to reach a compromise outside the framework of the General Agreement, it must be admitted that all efforts had failed and that it would be in vain to pursue the matter in this fashion any further. The creation of a new organization deprived of the necessary possibilities of action could only complicate the situation and increase the existing overlapping.

Mr. VARGAS GOMEZ Cuba), said that the inability hitherto to reach a fully agreed compromise should not discourage continued efforts in this field. This was a very difficult matter and considerable progress had been made over the past year. All delegations had made the greatest possible efforts of conciliation; his own delegation must still reserve its position as to the suggested new article for regional commodity arrangements and on the provisions regarding dependent territories in Article XXIII. With regard to Article X:1(c) he was inclined to accept the idea of economic integration there set forth, but it was a matter which would require careful study by his Government. The point regarding Article X:1(a) raised by the Indian representative seemed to him a valid one and he would request that their view should be met in order to comply with an elementary principle of justice. The CONTRACTING PARTIES should continue to work on this matter, and he was confident that if this work continued in the spirit that had prevailed hitherto agreement would eventually be reached.

Dr. MARTINS (Austria), was gratified that so much agreement had been reached in this field and considered that the text of the draft Agreement and the amendments proposed by the Chairman could usefully serve as a basis for further discussion. He was ready to submit the amendments and the draft to his Government for consideration although the provisions for exceptions for regional arrangements in particular required careful examination in the light of the economic and legal problems for small countries.

Mr. TAHA CARIM (Turkey), shared the view expressed by the Austrian representative.

M. ROCHEREAU (France), referred to earlier statements on the interest of his Government in the special agreement. He thought it would be advisable to exclude from the field of the special agreement existing commodity arrangements and to leave to them to decide themselves as to whether they wished to come under the special agreement or not; a more flexible wording for Article X:1(a) would be advisable. In regard to Article X:1(c) he repeated that the agreement of France on this text depended on a satisfactory exception for economic integration. With regard to Article XXIII, his delegation associated itself with the spirit of compromise demonstrated in the amendment, whereby separate representation, rather than being decided once and for all within the special agreement, would be open to decision by the majority of participants in each study group and negotiating confernece. He wished, however, clearly to affirm that any such decision by the interested bodies must not be of a political character nor based on the nature of the relations between the territories in question and the Governments responsible for their international relations. It would diminish the efficiency of study groups and negotiating conferences and delay their considerations of the economic and technical problems within their sphere of competence if they were to become engaged in political considerations outside. The wording of Article XXIII should therefore avoid any ambiguity and state clearly that the study groups and negotiating conferences would decide not on the question of separate representation for any particular territory but on the general question of whether the subject under discussion was such as to justify the principle of representation for autonomous and dependent territories. This was not only a question of principle, but concerned the whole future of the organization. The present wording of the Article did not seem completely satisfactory and he hoped that time would be given to consider how this important point could better be made clear.

Baron BENTINCK (Netherlands), was pleased to see agreement nearer on some of the main issues. The amended text of Article XXIII, in so far as it settled the question of autonomous territories, was acceptable to his delegation and he could in a general manner support the draft agreement as amended before his Government. A substantial measure of agreement at the present meeting would be required to justify further action by the CONTRACTING PARTIES.

Mr. WILSON (Canada), shared the view that a considerable measure of progress had been made. He would support the suggestion to continue to study this matter in the hope of reaching an agreed text, emphasizing that his Government hoped that there would be no proposals to weaken the present draft. The Canadian Government regretted the suggestion to make an exception in the special agreement for regional arrangements and hoped that delegations would re-examine the other provisions with a view to seeing whether sufficient allowance was not made therein to take care of this problem. If there must,

nevertheless, be an exception for regional arrangements, his delegation would propose more precise drafting to make clear that the special agreement would in no way weaken Articles XXIV or XXV of the General Agreement.

Sir Claude COREA expressed gratification that certain difficult problems were near solution. He could not accept the view expressed by the Brazilian representative that action should be abandoned here, nor did he see any purpose to be served by informing the United Nations in such a sense. The GATT was clearly the competent body to deal with this problem and had been acting on that assumption for a year now. It was in any case clear from the old Article XXIX which specifically included a reference to Chapter VI of the Havana Charter. It could not be said that the CONTRACTING PARTIES, the only international body dealing with trade, were not competent to deal with primary commodities which formed some 50 per cent of world trade. A solution seemed to be now in view and it would be regrettable to abandon the effort at this stage.

He referred to the point that had been raised by the Indian representative concerning existing arrangements. The Tea Agreement was a vital matter to some countries including his own, more than 60 per cent of whose exports and export income came from tea. Although it might not wholly conform to the Economic and Social Council resolution, it would come under the proposed special agreement in nearly all respects, and in any event it had never had adverse effects on consumers. In the interests of a flexible and liberal agreement, some provision to safeguard the position of countries so vitally concerned must be made. Sir Claude favoured continuing the efforts to reach agreement and that the matter be taken up again at the Eleventh Session.

Mr. KASTOFT (Denmark), accepted the agreement with the proposed amendments as a basis for continued work and was willing to co-operate in the efforts to reach a solution. His Government, however, could not agree to weaken the agreement further.

Mr. RUSHMERE (Rhodesia and Nyasaland), hoped that the study of this matter would be continued. His Government still had reservations on Article X:1(b) and Article XX, but they would be glad to examine these further.

Mr. MACHADO (Brazil), said that his delegation had no wish to preclude a continued search for agreement in the commodity field if some delegations really considered this attainable. The point that they wished settled was a different one and it seemed to them essential that the CONTRACTING PARTIES declare themselves on the question as to whether or not the CONTRACTING PARTIES per se were competent to deal with commodity matters. It was this decision that he wished to have communicated to the United Nations, irrespective of whether individual contracting parties wished to continue to explore the possibilities of agreement further. He requested a formal decision on this point.

The CHAIRMAN said that the request of the Brazilian delegate would have to be dealt with before continuation of the general debate. He would therefore, give his opinion of the legal situation. In his opinion the question of competence of the CONTRACTING PARTIES to deal with commodity matters had been decided at the Ninth Session when the CONTRACTING PARTIES decided to establish the Working Party on Commodity Problems. In fact, during the discussion leading up to the establishment of that Working Party by the CONTRACTING PARTIES, the question of competence of the CONTRACTING PARTIES in this field had been raised. In this connection, he referred to the discussion in Working Party IV of the Ninth Session and its Sub-Group on Commodity Questions as well as the action taken by the CONTRACTING PARTIES in adopting the Interim Report of the Working Party. Although there was not general support for inserting in the General Agreement provisions along the lines of Chapter VI of the Havana Charter, there was a substantial majority of the CONTRACTING PARTIES in favour of making appropriate arrangements for the study of commodity problems and the establishment of a Working Party for this purpose. The adoption of these recommendations by the CONTRACTING PARTIES showed that the CONTRACTING PARTIES were acting properly within the provisions of paragraph 1 of Article XXV. The fact that the Working Party had recommended a separate instrument did not have any material bearing on the matter, as the CONTRACTING PARTIES had during the Ninth Session considered that, for reasons of policy, a Commodity Agreement should be separate from the CONTRACTING PARTIES.

Mr. MACHADO (Brazil), requested a roll-call vote to determine whether the CONTRACTING PARTIES agreed or disagreed with the opinion of the Chairman.

The CONTRACTING PARTIES upheld the Chairman's ruling by 29 votes in favour; Brazil voted against, the United States abstained, the Dominican Republic, Nicaragua, Peru and Uruguay were absent.

Mr. GARCIA OLDINI (CHILE), thought it important not to forget, in the difficulties of reaching agreement in the short time that remained of the Session, the importance of this question and the need to find a common ground. He recognized that considerable efforts had been made by all concerned to lessen the area of disagreement; although no complete solution had been reached there seemed to him a good basis for further consideration by governments and further efforts to reach a common text. Time should be permitted for the negotiations to continue and to avoid facing governments with a choice between an unsatisfactory agreement or giving up all ideas of international co-operation in this field.

Mr. POUMPOURAS (Greece) said that, while his delegation was not yet in a position to take a firm position on the draft agreement, they attached importance to the problem and supported all efforts to reach a solution.

Mr. ABE (Japan), referred to his earlier statement (SR.10/14, page 155) that he was prepared to consider the provisions of the draft as a reasonable basis. The Japanese delegation preferred a simple and practical agreement and it seemed to him that the reasons behind the proposed amendments to Article X:1(c)

could largely be covered by the existing texts. Regarding the proposal concerning dependent territories, separate representation must only be when the economic conditions of the autonomous territory and its juridical position justified such representation. He had no objection to the idea behind the proposed escape clause but would reserve the attitude of his Government to the proposed agreement in general and favour further study of the matter.

Mr. SRONEK (Czechoslovakia), referred to the reservation he had made at the earlier discussion (SR.10/14, page 156). The amendments proposed by the Chairman of the Working Party had not settled the main problem for his Government which was the relation of the draft agreement to the General Agreement and the United Nations. He explained that he had voted in favour of the Chairman's ruling because in their view the CONTRACTING PARTIES were competent to deal with problems of commodity trade. On the other hand they considered the United Nations the more appropriate body to undertake this work.

Mr. NOTARANGELI (Italy), expressed satisfaction with the amendments proposed by the Chairman of the Working Party and associated himself with the remarks of the French delegate that it would be useful to make an exception for existing commodity agreements. He supported the view expressed by the German representative on behalf of the Member States of the European Coal and Steel Community regarding Article X:1(c). While his delegation had originally been wholly opposed to granting a vote to dependent territories, they would now support before their Government the proposed amendment to Article XXIII.

U SAW OHN TIN (Burma), said that he was unable to comment on the draft agreement at the moment. It was being considered by his Government.

The CHAIRMAN stated that the debate had shown a majority in favour of continuing the efforts to reach an agreed text for a special agreement. He proposed that the result of the debate be summarized and sent on a restricted basis to the Secretary-General of the United Nations and to international organizations and governments which had received the report of the Working Party; presumably the United Nations'Commodity Commission would be supplied with this documentation through the Secretary-General. Intergovernmental discussions should continue between delegations most concerned with the outstanding differences; the Executive Secretary would be asked to assist if necessary in organizing any informal meeting that might be required. The CONTRACTING PARTIES might agree to authorize the Intersessional Committee to establish a drafting committee, if this seemed justified by the results of these discussions, to take into consideration any agreement reached and any further comments from governments or international agencies, and to prepare

a final draft for action at the Eleventh Session. The CONTRACTING PARTIES could then decide whether non-contracting parties should be invited to participate in work on such a draft at the Eleventh Session, as provided by the rules of procedure. The Executive Secretary would keep contracting parties advised as to the results of this work.

The CONTRACTING PARTIES agreed to the Chairman's proposal for handling this matter.

The meeting adjourned at 5.10 p.m.