

GENERAL AGREEMENT ON TARIFFS AND TRADE

COMMITTEE OF CONTRACTING PARTIES ON SPECIAL  
EXCHANGE AGREEMENTS

SECOND MEETING, LONDON, NOVEMBER, 1948.

NOTES ON DISCUSSIONS ON 1ST AND 2ND NOVEMBER, 1948.

1. ELECTION OF CHAIRMAN.

Mr. George Bronz, representative of the United States, was elected Chairman of the Committee.

2. ADOPTION OF AGENDA.

The provisional agenda in GATT/CEA/3 was adopted.

3. OBSERVERS.

The Chairman welcomed Mr. C.L. Hewitt and Mr. A.E. Ritchie as observers for Australia and Canada. The Committee agreed that an invitation to send an observer should be extended to the Government of Sweden which had expressed a desire to be represented in view of the fact that they would participate in the tariff negotiations in 1949 with a view to acceding to the General Agreement and would thereafter be expected either to join the International Monetary Fund or to conclude a special exchange agreement with the CONTRACTING PARTIES.

4. TERMS OF REFERENCE.

Attention was drawn to the Committee's terms of reference contained in GATT/CEA/1.

5. RULES OF PROCEDURE.

The Chairman proposed that if questions of procedure should arise during the meeting, the Rules of Procedure for Sessions of the CONTRACTING PARTIES, as contained in GATT/C.P.2./3 Rev.2., should be adopted.

6. TRANSLATION AND INTERPRETATION.

With the consent of the representatives of Belgium and France it was agreed that documents for the meeting should be issued in English only and that the discussions would be conducted in English without interpretation except at the request of the representative of Belgium or France.

7. HOURS OF WORK.

The Committee agreed that meetings would be held normally from 10.30 a.m. to 1 p.m. and 3 to 6 p.m., but that this might be varied from day to day.

8. PUBLICITY.

The Committee decided that no publicity need be given to their meetings and that the question of a press release need not be considered unless the press showed an interest in the proceedings.

9. PROPOSAL OF THE GOVERNMENT OF NEW ZEALAND.

The Chairman enquired whether the Committee would wish to begin their deliberations by a first reading of drafts A and B of a special exchange agreement

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~177~

contained in GATT/CEA/W.2. The representative of New Zealand proposed that an agreement containing fewer and more flexible provisions might be preferable and would in any case be favoured by his Government in view of the popular objection in New Zealand to membership in the Fund; he submitted to the Committee an outline of a special agreement which was subsequently distributed as document GATT/CEA/W.3. In reply to questions, the representative of New Zealand stated that his Government presented this alternative draft because they regarded it as more practicable and not from any desire to weaken the proposed obligations to be undertaken by the governments which would sign the agreement.

10. FIRST READING OF DRAFT AGREEMENT

The Committee decided to proceed by an examination of the Articles of Agreement of the International Monetary Fund which appeared in the third column of GATT/CEA/W.2., and at the same time to note the corresponding provisions in drafts A and B in that document and in the New Zealand proposal.

Article 1 (of the Articles of the Fund):  
Purposes

The observer for Australia suggested that the article of a special agreement setting forth its purposes should contain a statement, based upon paragraph 7(a) of Article XV of the General Agreement, to the effect that one of the objectives was that the General Agreement should not be frustrated as a result of the signatory government's action in exchange matters. The representative of New Zealand drew attention to the fact that this point was incorporated in paragraph 2 of his draft.

Article IV, Section 1, and Article XX, Section 4,  
(of the Articles of the Fund):  
Par Values.

As representative of the United States, the Chairman suggested that the procedure for the initial determination of par value proposed in draft B was unnecessary and that the fixation of the par value at the time of the conclusion of the Agreement, as proposed in draft A, was preferable.

The representative of New Zealand said that there was no provision in his draft for the fixation of par value, but this was not an essential feature of his draft and it could be provided if thought desirable.

Article IV, Section 2 (of the Articles of the Fund):  
Gold Transactions.

The representative of Belgium suggested that the prescription of margins above and below par values for transactions in gold should be applicable only to transactions by governments and not to private transactions.

The representative of New Zealand said that he would prefer to have the margins fixed by the CONTRACTING PARTIES as provided in draft B, rather than to stipulate that the margins shall be those prescribed by the Fund for its members. The Chairman said that it would be necessary to consider what possibility there would be of the CONTRACTING PARTIES fixing margins for transactions by country "X" which were not the same as the margins prescribed by the Fund for its members.

The representative of the United Kingdom said that his Government would not wish there to be more than one authority fixing such margins.

Article IV, Section 3 (of the Articles of the Fund):  
Foreign Exchange Dealings.

There was no comment on the proposal in drafts A and B to

incorporate a paragraph similar to Section 3. It was noted that draft B referred to rates for transactions between the currency of the signatory country and the currencies of other contracting parties which are members of the Fund or have concluded special exchange agreements with the CONTRACTING PARTIES, thus excluding a contracting party which was not a member of the Fund and had not yet concluded a special exchange agreement. The representative of the United Kingdom expressed agreement with this provision as it appeared in paragraph 4, and also in paragraph 5(b) of draft B.

Article IV, Section 4 (of the Articles of the Fund):  
Obligations regarding exchange stability.

It was noted that whereas a paragraph corresponding to sub-paragraph (a), requiring a member of the Fund to undertake to collaborate with the Fund to promote exchange stability etc., appeared in draft B, the same provision had been placed in the first Article in draft A.

There was no comment on sub-paragraph (b).

Article IV, Section 5 (of the Articles of the Fund):  
Changes in par value

In the discussion of this Article it appeared that members of the Committee were generally in agreement with the provisions proposed in drafts A and B.

A representative of the Fund enquired whether the Government of New Zealand would agree to a provision requiring prior approval for changes in par values. In reply the representative of New Zealand said that he thought his Government would not object to that provision and he thought that this might be deemed to be covered by the second sentence of paragraph 3 of his proposal.

The representative of the United Kingdom drew attention to Section 6 of Article IV of the Articles of the Fund entitled "Effect of unauthorised changes", and suggested that a corresponding condition should be included in special exchange agreements.

Article IV, Sections 7 and 5 (of the Articles of the Fund):  
Changes in par value.

The representative of the United Kingdom said that he would prefer the corresponding paragraph of draft A which provided that in the event of uniform changes country "X" "will change its par value proportionately" instead of "may change .....", as in draft B.

A representative of the Fund explained that Section 5(e) which provides that a member may change the par value of its currency without the concurrence of the Fund if the change does not affect the international transactions of other members, had been included in the Articles of Agreement at the request of the Russian representatives at the Bretton Woods Conference; no corresponding provision had been included in draft A since it was considered to be an exceptional provision and one which could be inserted in any particular agreement if found to be necessary.

Article IV, Section 9 (of the Articles of the Fund):  
Separate Currencies.

It was noted that the question of separate currencies within the territories of a signatory country would not arise in connection with any of the agreements contemplated except possibly for New Zealand; therefore, it was thought unnecessary to include a provision corresponding to Section 9 in the draft master agreement.

/Article VIII

Article VIII, Section 2 (of the Articles of the Fund):  
Restrictions on Current Payments.

The representative of New Zealand said that his Government would wish to limit the applicability of a provision corresponding to this Section to restrictions on payments for trade; thus the four sub-paragraphs of paragraph 1 in the New Zealand draft referred specifically to "trade" and this term was meant to include shipping and other related services, but not tourist travel, etc. The second part of paragraph 3 of the New Zealand draft was prompted by paragraph 7(a) of Article XV of the General Agreement which required that a special exchange agreement should provide that the objectives of the General Agreement would not be frustrated by action of the signatory government in exchange matters. The representative of the Fund said that if a provision dealing with the avoidance of restrictions on current payments were to regulate only those transactions directly connected with imports and exports, a large sector of payments and transfers would remain unregulated; the Articles of the Fund covered all current transactions and, therefore, the draft proposed by New Zealand would have to be carefully examined to see whether there would be a weakening of the obligations compared with those assumed by members of the Fund.

The representative of New Zealand stated further that he believed his Government would agree to the condition of prior approval for restrictions on current payments. The representative of the United Kingdom drew attention to the fact that Section 2 of the Articles of the Fund provided for "the approval of the Fund", whereas the corresponding provision of draft A required "express prior" approval.

Article VI, Section 3 (of the Articles of the Fund):  
Capital Transfers.

No comment.

Article VIII, Section 3 (of the Articles of the Fund):  
Discriminatory Currency Practices.

The representative of New Zealand suggested that a provision in the special agreement corresponding to the first sentence of Section 3 should refer only to "discriminatory currency arrangements" and "multiple currency practices" which affect international trade; he said that a practice which is intended only for the policing of import controls should be allowed.

Referring to the second sentence of Section 3, the representative of the Fund stated that no corresponding provision had been included in draft A because, so far as it was known, none of the countries which would be signing a special exchange agreement had such practices in operation which it would wish to retain and which were not already covered by the transitional provisions; in special exchange agreements it was not necessary, as it had been in the Bretton Woods Agreements to deal with hypothetical cases and to make provision for the unknown circumstances of the future; thus, whereas the second part of Section 3 allowed arrangements and practices which were engaged in when the agreement came into force, i. e., in December, 1945, it was not now necessary to include this provision in the draft master agreement, but it could be inserted in any particular agreement if found desirable. The representative of the United Kingdom thought that a special agreement would appear to be more restrictive than the Articles of Agreement of the Fund if no corresponding provision were included and, therefore, it should be inserted even though it appeared unlikely that it would serve a useful purpose. The representative of Belgium said that a provision corresponding to the first part of Section 3, i. e., the prohibition on such arrangements and practices, should not operate suddenly and that where such practices were engaged in there should be a transitional period for their cessation.

Article VIII, Section 2(b) (of the Articles of the Fund):  
Exchange Contracts.

It was noted that drafts A and B include a provision corresponding to that of the Articles of the Fund dealing with the enforceability of contracts which involve the currency of a member of the Fund and are contrary to the exchange control regulations of that member, but that the provision in draft A placed an obligation on the signatory government, while that in draft B placed obligations on the other contracting parties. The representative of the United States said that he had no authority to agree to the assumption of new obligations on behalf of his Government and acceptance of the provision in draft B might require new legislation. The representative of the United Kingdom said that his Government might also require special legislation but presumably this could be obtained at the same time as the definitive acceptance of the General Agreement and the ratification of the Havana Charter. The representative of New Zealand said that draft B had been found acceptable to his Government, but he had received no instructions concerning draft A. The representative of France remarked that if the governments which were to sign the agreements should not ask for obligations to be assumed by the other contracting parties the problem would fall away.

The representative of the Fund mentioned the question of whether obligations assumed under the special agreement would be binding upon the signatory government during the period of the provisional application of the General Agreement and whether executive approval of the special agreement would be regarded as binding in the courts. The Chairman said that the signatory governments when entering special agreements might make statements concerning their binding effect on the Executive, and the representative of New Zealand mentioned that their Parliament had already ratified the General Agreement and had, therefore, accepted the provision requiring a contracting party which is not a member of the Fund to enter into a special exchange agreement.

Article XIX (of the Articles of the Fund):  
Explanation of Terms.

The representative of the Fund said that he had no objection to inserting in the agreement a reference to Article XIX of the Articles of the Fund as had been done in draft B, instead of selecting for incorporation only the definition of payments for current transactions as had been done in draft A.

Article VIII, Sections 3,4 and 5 (of the Articles of the Fund):  
Scarce Currencies.

The representative of New Zealand said that his Government would wish to add a further provision to sub-paragraph (a) in draft B as follows:- "Such limitations may also be imposed if a currency is scarce to country "X" without having been declared scarce by the Fund."

With reference to Section 5 and the inclusion of a corresponding provision in draft B, the Chairman drew attention to the fact that this again raised the question of the contracting parties being required to assume obligations in respect of country "X".

Article VIII, Section 4 (of the Articles of the Fund):  
Convertibility.

The Chairman said that the Committee would have to decide whether a corresponding provision providing for the purchase of foreign held balances should be omitted altogether as in draft B, or whether it should be included without the final exception (b)(v) as in draft A; he said this again  
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raised the question of a parallel set of obligations for the signatories of special agreements and for the other contracting parties. The representative of New Zealand said that his Government might agree to the proposal in draft A on certain conditions, but it might be better to omit it. The representative of the United Kingdom thought that the provision proposed in draft A would have no immediate application to New Zealand, but it might be of interest to a country like Sweden and, therefore, its inclusion would have to be carefully considered.

Article XIV (of the Articles of the Fund):  
Transitional Period.

The Chairman drew attention to the note in draft A, paragraph 1, to the effect that an agreement concluded with a contracting party whose territory was occupied by the enemy in the last war would have to include a provision for the introduction, as well as the maintenance, of restrictions on payments and transfers for current transactions; it appeared that such a provision would be of interest only to Burma and, therefore, need not be included in the master agreement.

Referring to the alternative, based upon Article XII (2)(a) of the General Agreement, for the first part of the corresponding article in draft A, the representative of the United Kingdom said that he would prefer to retain the phraseology used in the Articles of Agreement of the Fund as provided in the corresponding paragraphs of draft B.

The representative of New Zealand said that his Government had expressed a preference for draft B.

Article XII, Section 8 (of the Articles of the Fund):  
Communications to Members.

It was noted that draft A included an article corresponding to Article XII of Section 8 of the Articles of the Fund and that the latter should have appeared on page 9 of GATT/OEA/W.2.

The representative of the Fund said that members had sometimes objected to the submission of views to them by the Fund and that Section 8 had thus been of value in giving authority for such submissions.

The Chairman said that the provisions of paragraph 5 of the New Zealand draft suggested that the relations between the CONTRACTING PARTIES and the Fund might require elaboration beyond that contained in the exchange of letters of September - October, 1948, and possibly on the lines of the draft relationship agreement between the I.T.O. and the Fund.

Article VIII, Section 5 (of the Articles of the Fund):  
Information.

The Chairman drew attention to the fact that paragraph 8 of Article XV of the General Agreement requires a contracting party which is not a member of the Fund to furnish such information, within the general scope of this Section, as may be requested by the CONTRACTING PARTIES. In view of this provision, the representative of New Zealand suggested that the special agreements might require no provisions corresponding to this Section.

Article XI, Sections 1 and 2 (of the Articles of the Fund):  
Relations with non-members.

It was noted that a corresponding provision had been included in draft B, but none in draft A, and the Chairman suggested that the applicability of this provision to various categories of countries, whether or not members of the Fund, contracting parties or signatories of special agreements, would have to be carefully considered.

Article XVI

Article XVI, Section 1 (of the Articles of the Fund):  
Temporary Suspension.

No comment.

Article VIII, Section 6 (of the Articles of the Fund):  
Existing International Agreements.

It was noted that the inclusion in draft B of a provision corresponding to this Section again raised the question of the assumption of obligations by other contracting parties which might have prior engagements with the signatories of special agreements. The representative of New Zealand said that this provision might be omitted and the representative of the United States said that he would prefer to see it omitted.

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Article V, Section 1 (of the Articles of the Fund):

Agencies.

No comment.

Article XXI, Section 2(g) (of the Articles of the Fund):  
Territorial Application.

It was noted that a provision corresponding to Section 2(g) would not be required except possibly for New Zealand and, therefore, need not be included in the draft master agreement.

Article XVII (of the Articles of the Fund):  
Amendments.

The observer for Australia suggested that the corresponding article in a special exchange agreement should provide, as in draft A, that amendments of the agreement may be proposed by the CONTRACTING PARTIES as well as by the signatory government.

Article XVI, Section 2(b) (of the Articles of the Fund):  
Termination.

Members of the Committee expressed the view that provision should be made, as in draft A, for termination of the agreement when the signatory government either joins the Fund or withdraws from the General Agreement, and that no mention need be made of the possibility of the Fund being liquidated.

Miscellaneous Provisions.

The Committee also considered paragraphs 1 and 3 of Article XIV of draft A containing provisions which did not correspond to Articles of the Fund Agreement.

Paragraph 1. The Chairman suggested that it would be unnecessary to provide that a special agreement would constitute a part of the signatory government's obligations under the General Agreement, in view of the fact that this was specifically provided for in paragraph 6 of Article XV of the General Agreement.

Paragraph 3. The Chairman suggested that a provision for the CONTRACTING PARTIES to declare that the signatory government had violated the agreement and its obligations under the General Agreement appeared to be unnecessary and that the complaint procedure of the General Agreement was adequate. The representative of the United Kingdom thought that the declaration of violation was a useful concept and was preferable to  
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## 11. ACTION BY THE CONTRACTING PARTIES.

The representative of the United Kingdom mentioned the general problem of how the CONTRACTING PARTIES would take action or reach decisions during the long intervals between sessions; concerning consultations with the Fund in matters arising under a special agreement, he suggested that arrangements might be made, for example, for the Chairman to proceed with consultations with the Fund upon receiving a request from a contracting party, or, on the other hand, the signatory government might be given the option of bringing the question to the notice of the Chairman or referring it directly to the Fund. This suggestion was supported by the representative of France, who said that a signatory government might prefer to refer direct to the Fund for reasons of security and expedition.

## 12. COMMENTS ON THE NEW ZEALAND PROPOSAL

The representative of New Zealand said that it was his desire to inform his Government of the views of the Committee on the proposal presented by him in GATT/CEA/W.3; in particular he would like to know whether the proposal for a much shorter agreement than that envisaged in drafts A and B would be acceptable.

The following comments were made:-

UNITED KINGDOM It will be necessary to avoid creating two classes of contracting parties and weakening the obligations corresponding to the Articles of the Fund; thus the obligations on members of the Fund should be preserved intact in the provisions of the special agreements.

UNITED STATES. The obligations in the Articles of the Fund are all thought to be essential and, therefore, special agreements based on drafts A and B would be preferred.

FRANCE. The text of a short draft such as that submitted by New Zealand would require very lengthy and careful study. The Fund Articles were prepared by technicians and should, therefore, be accepted as a basis for the provisions of the special agreements; it might, however, be possible to avoid specific mention of the Fund so as to meet the political problem of the New Zealand Government.

BELGIUM. Precise commitments would be preferable so as to avoid different interpretations of obligations by signatory governments and the Fund.

CEYLON. The Government of Ceylon expects to enter the Fund in the near future; drafts A and B would seem preferable.

PAKISTAN. The Government of Pakistan expects to enter the Fund in the near future.

BURMA. No instructions have been received.

The representative of New Zealand then enquired whether it might be possible to have a short agreement on the lines proposed and a set of rules  
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for interpretation as a separate document. The Chairman and members of the Committee agreed that this proposal might be considered.

13. PROCEDURE

The Committee agreed with the proposal of the Chairman that the Committee should recess for two days, to give members an opportunity to prepare definite proposals in the light of the discussions in First Reading, and that the meeting should be resumed at 10.30 a.m. on November 5th.