

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

SR.7/17

12 November 1952

Limited Distribution

SUMMARY RECORD OF THE SEVENTEENTH MEETING

Held at the Palais des Nations, Geneva
on Monday, 10 November 1952, at 10 a.m.

Chairman: Mr. Johan MELANDER (Norway)

Subjects discussed:

1. Working Party 8 on Netherlands Action under Article XXIII:2 - Statement by the Chairman
2. Report of Group of Experts on Council of Europe Proposal
3. Report of Working Party 4 on European Coal and Steel Community
4. Closing Statement by the Chairman

1. Working Party 8 on Netherlands Action under Article XXIII:2 Statement by the Chairman

Dr. TREU (Austria) felt that it would be unsatisfactory to leave the record of the discussion of the Working Party report on the Netherlands action as it stood at the preceding meeting. He said it had appeared, during the course of the debate, that the report of the Working Party failed to explain to the satisfaction of some contracting parties, the reasons which led the Working Party to its decision. Dr. Treu regretted that the report lacked clarity in this respect. He wished to make it clear that the Working Party's considerations had included various statistical calculations, the additional elements of the damage suffered, and finally, the purpose for which the measure was proposed. As stated in the report, this examination led to two conclusions - first that the measure proposed was not unreasonable, and secondly that the somewhat lower figure would be more appropriate in the sense best calculated to achieve the purpose for which the measure was taken, i.e. the removal of the United States restrictions. In his view the test of appropriateness under Article XXIII was the different concept from mere reasonableness, in that account must be taken of the desirability of limiting such action to that best calculated in the circumstances to achieve the objective.

Dr. van BLANKENSTEIN (Netherlands) said that he was satisfied with this statement.

2. Report of Group of Experts on Council of Europe Proposal (G/36)

Mr. PRESS (New Zealand) introduced the report and stressed that it contained only views on the technical implications of the Council of Europe's proposals and was before the CONTRACTING PARTIES not for their approval but only for transmission as a technical analysis to the Council. On behalf of the group, he wished particularly to thank the Council of Europe member who attended and supplied helpful background information. The group had based its studies on the three principles of the Council of Europe plan: the creation of a general ceiling, the creation of special ceilings for several classes of goods, and the fact that the plan should be open to all countries. They had confined their study to technical difficulties in the application of these regulations and had not entered into the field of economic or policy considerations. He referred also to the annexes containing information concerning the importance of so-called fiscal duties in some countries.

Dr. BOTHA (Union of South Africa) congratulated the group on their study which should prove useful to the Council of Europe.

Mr. van BLANKENSTEIN (Netherlands) thought that the letter to the Council of Europe should make it clear that the normal function of the CONTRACTING PARTIES was not to make purely technical reports but to act on the substance of questions.

The CHAIRMAN said the Executive Secretary would take note of this in preparing the letter for dispatch.

3. Report of Working Party 4 on European Coal and Steel Community (G/35)

The CHAIRMAN announced that a special ceremony would be held in the Council Chamber of the Palais des Nations for the granting of the waiver by the CONTRACTING PARTIES to the six member States of the European Coal and Steel Community.

The Chairman then introduced the report of the Working Party of which he had acted as chairman. The Working Party had considered the applicability of Article XXV:5(a) and concluded that it would be appropriate for the CONTRACTING PARTIES to grant the necessary waiver under that Article. The principles underlying the waiver were to be found in Part III of the report; various statements and undertakings by different representatives could be found in Part IV. Part II of the draft decision provided that the governments of the member States would submit an annual report to the CONTRACTING PARTIES until the end of the intersessional period as defined in the Convention. Part IV of the decision stressed that the considerations and undertakings set out in the preamble and the principles set out in Section I would be taken into account by the CONTRACTING PARTIES in considering any question relating to the decision. The Chairman noted the reservation by the delegate of Sweden contained in paragraph 10 of the report.

Mr. FINNMARK (Sweden) said that when the request for waivers of the obligations of the General Agreement for Tariffs and Trade presented by the six countries associated in the European Coal and Steel Community was first discussed by the CONTRACTING PARTIES, the Swedish delegate emphasized that the Swedish Government welcomed the establishment of the Community as a constructive step towards the total integration of the European economy. It was stressed at the same time that the creation of the Community must give rise to problems for the General Agreement as well as for countries outside the Community that had to be examined closely by the CONTRACTING PARTIES. In the case of Sweden the Community and its relations to the General Agreement would affect central problems of commercial policy in a way which had perhaps no exact parallel with regard to any other contracting party.

During the debates in the Working Party, the Swedish delegate described thoroughly the character of the special interests relating to commercial policy that were affected by the request of the six countries, as well as the general economic background against which the Swedish attitude should be seen. Among the important export interests for Sweden, the exports of high-quality steel in particular in relation to the six countries of the Community, and the central position of the steel industry in the general economy of Sweden were of general concern. As an importing country also, Sweden had vital interests to protect. Practically the whole of the Swedish imports of coke, by far the greatest part of the commercial iron and all imports of scrap iron normally came from the territories of the union.

Under those circumstances it was natural that the Swedish authorities would have to pay careful attention to the consequences to those interests that the request of the six countries might cause. They also considered it very important not to create precedents that were liable to involve a weakening of the structure of the General Agreement. There was no doubt that the objectives and the construction of the Union fell entirely within the framework of the purposes of the General Agreement, and that from this point of view it represented a constructive new approach to their attainment. At the same time, however, it seemed desirable more specifically to define the position of this new construction vis-à-vis the General Agreement, and to determine in a more exact way the extent of the waivers necessary. The result arrived at by the Working Party and is embodied in the draft decision was entirely satisfactory to the Swedish authorities.

Apart from the institutional considerations, the Swedish delegate in the Working Party expressed concern on two more specific points. Sweden was concerned at the inconveniences from the supply point of view that might arise if the provision of Article XX:2(a) of the General Agreement, dealing with the equitable international distribution of products in general or local short supply were suspended between each of the six member States and those outside the Community. In spite of the vital interests of supply, dependant upon the maintenance of that principle, the Swedish authorities had been convinced by the assurances made by representatives for the Community, that due account would be taken of the needs of third countries. In other respects such as prices, restrictive business practices etc., the Swedish authorities had relied upon the assurances made by spokesmen of the Community to the effect that due regard would be paid to the interests of third countries, and

also relied upon the corresponding principles contained in the preamble of the present draft decision as well as in Article 3 of the Treaty constituting the European Coal and Steel Community. On the assumption that the Community would follow a liberal policy with regard to exports and imports and that in practice no deviation would be made from the principle of equitable treatment when allocating scarce materials, the Swedish Government had been able to agree to the solution of this problem contained in the present draft decision.

In one respect, however, it had not been possible to find a solution as hoped for by the Swedish authorities. The establishment of a preferential area between the six countries might lead to a substantial change in the basis of competition with respect to Swedish exports of steel to this market involving economic sacrifices on the part of Sweden. A waiver of the most-favoured-nation right therefore, in their opinion, constituted a concession which they felt should justify a request for adequate compensation from the member States of the Union. The importance to Sweden of this point was also apparent from the fact that its tariff was one of the lowest in the world. As the six countries did not share the Swedish opinion in this respect, the Swedish delegate reserved his position in the Working Party with regard to paragraph 1 of the Draft Decision. His government regretted that the member States could not agree to this view. However, his government had now reconsidered all the aspects of the question in the light of the report of the Working Party and of the assurances and undertakings made by representatives of the Union. As a result and with the desire to co-operate closely with the Community, its members and institutions in a spirit of mutual confidence, Mr. Finnmark said that he had been instructed to withdraw the reservation made by the Swedish delegate in the Working Party with regard to paragraph 1 in the draft decision and to vote in favour of this decision. In doing so his government trusted that should questions relative to the interpretation and application of the present decision come before the CONTRACTING PARTIES in the future, due regard would be given by the CONTRACTING PARTIES to the extent and importance of the special interests involved as far as Sweden is concerned. The decision of his government to vote in favour of the present draft resolution was based upon confidence in the Community, and his government hoped that the Community, its members and institutions would give their interests and points of view every possible attention and consideration.

Mr. THAAGARD (Norway) said that the Norwegian Delegation was convinced that the European Coal and Steel Community, if it fulfilled its objectives, would lead to greater economic and social improvement and might further a broader federation between the six countries involved. It was clear that outside countries would be affected by the establishment of the Community although it was not possible to foresee in what manner. The Treaty contained various provisions of interest to outside countries; among them the undertaking to further the development of international trade taking into account the needs of third parties and ensuring that equitable limits be observed in prices charged in external markets. The Working Party report emphasized and supplemented these principles and made them part of the proposed decision. The CONTRACTING PARTIES would, therefore, have the opportunity to deal with concrete cases which might arise in the light of the principles set out in the preamble to the decision. The Norwegian Delegation considered this

Mr. SVEC (Czechoslovakia) felt bound to express the dissatisfaction and disapproval of the Czechoslovak Delegation with the report and resolution recommended by the Working Party on the Schuman Plan. He referred to the legal aspects of the problem. The Working Party had concluded that Article XXV was the Article to be applied in order to reconcile the conflicting provisions of the General Agreement and of the Schuman Treaty and Convention (paragraph 2 of report). This meant that in order to accommodate the new preferential system of the Schuman Organisation the obligations of the General Agreement were to be waived according to Article XXV. Mr. Svec referred to the reasons he had already given in the introductory debate (SR.7/3 and W.7/47) and developed in the Working Party. His delegation was not impressed by the argument of some members of the Working Party that any rigid interpretation of the rules was not advisable as it would not allow the adjustments of the principles to the changing conditions in the world. They were convinced, on the contrary, that the principles must be preserved by strict application and interpretation of the rules. Consequently they maintained their position that the difficulty, which the six contracting parties had themselves arbitrarily created by the Schuman Treaty, of extricating themselves from the obligations of the General Agreement, could not be considered as a justification for a waiver of such obligations.

Mr. Svec referred to the public ceremony which the Chairman had announced. Apart from the fact that he did not quite understand why in the case of a breach of the General Agreement there should be a public meeting, he was concerned at the assumption of a majority implied in the prearrangement of this ceremony. The question of the majority was an important one for the legality of decisions under the Agreement. The Schuman Plan admittedly conflicted with a number of obligations under the Agreement including some provisions that could not be amended except by unanimous agreement of all the contracting parties. The draft resolution recommended waiving the obligations of Article I:1 in order to permit the six members of the European Community to establish among themselves a new preferential area. The draft decision also provided that the French preferential system, which had been provided for in the Agreement to extend between Metropolitan France and its overseas territories, be extended to all six Schuman Plan countries. This would also conflict with Article I:1. The draft decision would also permit Belgium, Luxemburg and the Netherlands to raise their tariffs on certain items, some of which were bound in the Schedules. Such a modification would conflict with Article II:1. The question arose thus as to whether, in cases of a waiver from obligations under Part I of the General Agreement, the amendment of which required unanimity according to Article XXX:1, the two-thirds majority provided in Article XXV was sufficient. Release from such obligations had been considered in the past and the United Kingdom representative in the Working Party had referred to the waiver granted to Brazil to increase certain tariffs bound in the Schedules. The waiver at that time was granted unanimously and thus the question of a majority did not arise. However, when the question of majority was discussed in Annecy, representatives of Australia, Canada and the United Kingdom emphasized that any change to the concessions required a unanimous decision, and this was confirmed by the former Chairman of the CONTRACTING PARTIES (viz. GATT/CP.3/SR.8). The Czechoslovak Delegation had at that time concurred in this view and saw no reason to depart from it now. Mr. Svec also referred to the Analytical Index

which quoted in relation to Article XXX, a document of the Tariff Negotiations in Geneva (EPCT/TAC/FV/15): "The General Agreement is a commercial agreement and it is the rule of normal commercial agreements that they can be changed only by unanimous agreement of the contracting parties. The 2/3 majority is an exceptional one and can be applied only insofar as Part II is concerned..."

The Agreement had been constructed by the contracting parties and for them. The new organisation that was now trying to share this structure could not be accommodated. Mr. Svec compared the Schuman Plan with the Trojan Horse and wondered whether the CONTRACTING PARTIES could consider it appropriate in order to accommodate this new body to change the whole structure of the Agreement. Was it fair furthermore to let a 2/3 majority decide upon obligations under Part I of the Agreement any amendment of which required unanimity.

Mr. Svec went on to consider Section II, paragraph 3 of the report which concluded that the objectives of the Schuman Plan and the Agreement were broadly consistent. His delegation could not agree with this conclusion. Naturally, the Working Party could only base its considerations on the actual provisions of the Treaty, but it was necessary to look behind the words for the fundamental aims. The faith of his country in solemn statements about constructive aims and the maintenance of peace had been utterly destroyed by the Munich Treaty of 1938. In the view of the Czechoslovak Delegation the fundamental aims of the Schuman Plan were aggressive and Mr. Svec quoted extracts from press reports and other statements to support this view. He referred to the objectives of the United Nations Charter and to the objectives of the Agreement and found it impossible to agree that the objectives of the Schuman Plan were consistent therewith. His delegation would vote against the report and against the waiver.

The CHAIRMAN explained that the public ceremony which was to take place was only a ceremony for the handing of the waiver to the High Authority and not a regular meeting of the CONTRACTING PARTIES. There was no question of a decision being taken at that meeting. Concerning the remarks by the Czechoslovak delegate that the ceremony had been arranged on the assumption that a vote in favour of the waiver would be forthcoming, he agreed that this was so, but the Working Party report had been a unanimous one with the exception of the reservation of Sweden which had since been withdrawn, and no contracting party other than Czechoslovakia had made any statement opposing the decision.

The Chairman referred to the remarks of the Czechoslovak delegate concerning the decision at the Second Session on the waiver granted to Brazil and pointed out that the summary record of that meeting (CP.2/SR.20) expressly stated that this decision was taken under Article XXV.

Dr. HELMI (Indonesia) said that his delegation did not wish to stand in the way of the establishment of the European Coal and Steel Community but nevertheless took a neutral position on this matter and would abstain from the vote.

Mr. PHILIP (France) thought that the representative of Czechoslovakia had failed to take account of the difference between an amendment to the General Agreement and a waiver respecting the application of certain provisions

of the Agreement. The conditions to be fulfilled in the two cases were not the same. Furthermore, there was a difference between the creation of a preferential system and the construction of a unified market for the purpose of eliminating tariffs. It would be extremely undesirable to use the General Agreement in order to prevent countries from attaining the objectives of the Agreement by opposing plans for unification and the lowering of trade barriers. He thought the practice of using quotations from newspapers and speeches out of context a regrettable one in a serious meeting. As to the classical allusions in Mr. Svec's statement, Mr. Philip pointed out that the doors of the Trojan Horse were closed whereas the European Coal and Steel Community was open to all countries; already certain countries which had not been able actually to join the Community had sent representatives to study problems of technical cooperation. The Community was open to others and whenever Czechoslovakia was at liberty to express the wish to join, it would be welcomed.

Mr. SOUZA (Brazil) expressed the satisfaction of his delegation at the result of the Working Party's deliberations. The Brazilian Delegation believed that one of the objectives of the Community was to promote the international exchange of commodities, a principle which was fundamental to the General Agreement. Brazil, as a newcomer in the production of steel and iron, an industry dependent on imports of coal, would follow the activities of the Community with interest. They noted with satisfaction the spirit of the recommendations of the Working Party that no action should be taken by the High Authority to extend to other countries less favourable treatment than that reserved to the members of the Community, and that the High Authority should take into account in its decisions the essential interests of other countries. In voting in favour of the waiver contained in the decision submitted to the CONTRACTING PARTIES, the Brazilian Delegation wished to stress the interest with which Brazil would watch the development of the steel and coal industries in Western Europe, having in mind the possible impact of those developments on its own production.

Mr. SVEC (Czechoslovakia) was not reassured by Mr. Philip's statement which appeared to him to bear a close resemblance to statements regarding the "liberation" of Eastern Europe.

Mr. SPIERENBURG (High Authority for European Coal and Steel Community) stated that the High Authority undertook, in the exercise of the powers conferred upon it by the Treaty, and to the extent permitted by such powers, on behalf of the European Coal and Steel Community, to act in accordance with the obligations which would apply if the Community were a single contracting party consisting of the European territories of the member States. The High Authority also undertook, within the limit of those powers, upon invitation of any of the member States issued at the request of any other contracting party or of the CONTRACTING PARTIES, to participate together with the member State or States concerned in all consultations undertaken in accordance with the provisions of the General Agreement.

Mr. SUIJENS (Belgium), on behalf of the six member States of the European Coal and Steel Community, stated that if, in accordance with the provisions of the General Agreement, a consultation should take place with one or more member States of the Community with respect to a question within the competence of the High Authority, and if any other contracting party or the CONTRACTING

PARTIES so requested, the High Authority would be invited to be represented at such consultation.

The report was adopted by the CONTRACTING PARTIES. The decision was adopted by 27 votes in favour and 1 against. The delegates of Cuba and Indonesia abstained.

Dr. VARGAS GOMEZ (Cuba) explained that he had abstained not because of any disapproval of the Schuman Plan. Cuba regarded the European Coal and Steel Community with satisfaction and considered it necessary in present circumstances. However, certain legal questions had been raised at the last moment which he felt to be of such importance that he would wish to have the specific approval of his Government before voting in favour of the decision.

Dr. HELMI (Indonesia) repeated that his abstention was prompted not by any opposition to the Community but by the traditional neutrality of his country.

4. Closing Statement by the Chairman

The CHAIRMAN said that this Session had covered a wide range of important and complex subjects and had been, in his view, a satisfactory one. The most important item had been the waiver to be granted to the European Coal and Steel Community. The consultations on the balance-of-payment import restrictions had been satisfactorily conducted and the new emphasis on the trade aspects of these policies had laid the basis for constructive work in the future. There had been a number of complaints brought before the CONTRACTING PARTIES during this Session and the mechanism for dealing with them by the Panel had proved effective. The settlement of differences was a very important part of the contribution of the CONTRACTING PARTIES to international relations and the measure of success with which these were dealt was the measure of the vitality of the General Agreement itself. At this Session the CONTRACTING PARTIES had noted the exemplary effect of the decision by the United Kingdom to bring its purchase tax legislation into conformity with its obligations under the Agreement. In other cases, the CONTRACTING PARTIES had made recommendations which they had reason to hope would lead to a settlement of the differences in question. In one important case it must be regretfully recorded that the CONTRACTING PARTIES had not been successful, namely, the quantitative restrictions maintained by the United States on dairy products. Although the restrictions had, in some cases, been modified, they continued to be maintained contrary to the provisions of the General Agreement and with damage to other contracting parties. It had, as a consequence, been necessary to authorize compensatory withdrawals. Even in this case, however, some constructive elements might be discerned in the restraint with which applications or withdrawals had been made and in the agreement to submit any compensatory measures to the prior approval of the CONTRACTING PARTIES in accordance with Article XXIII. The CONTRACTING PARTIES had also recognized that the only proper solution to the problem was the withdrawal of the restrictions themselves.

Problems affecting the economic development of one of the contracting parties, Ceylon, had been considered and it had been possible to find a reasonable and constructive solution. The CONTRACTING PARTIES had also been impressed by the fact that a busy Minister had been able to present the case of Ceylon at the Session. Technical questions had been dealt with and the

CONTRACTING PARTIES had completed their examination of the draft convention on samples and advertising material and the recommendations on documentary requirements and consular formalities. Finally, the CONTRACTING PARTIES had considered the application of Japan to accede to the Agreement and had made arrangements for the Intersessional Committee to examine the matter in detail early in 1953.

The Chairman considered that the present Session had fully demonstrated the vitality and efficacy of the Agreement. He hoped that when governments were reviewing their commercial and economic policies, particularly the larger and more influential economic powers, they would take careful account of the important place which the Agreement had grown to occupy in the framework of international relations. He felt sure that if they read aright the lessons to be drawn from the years of hard and co-operative work which had gone into the making of the GATT as it now stood, they would not lightly engage in policies which would undermine it or impede its further growth.

He reverted to a theme of his opening statement when he had said that if countries were to move rapidly towards the important objectives of the General Agreement, they ought to address themselves more to the causes than to the symptoms of their present economic ills. He would like to think that in 1953 the governments could work together to agree upon a concerted programme of action to remove the causes of the present disequilibrium, and establish the conditions which would enable them to make a substantial advance towards the removal of restrictions and discrimination. This, of course, he did not state as an end in itself, but as a means to the attainment of the objectives they had set themselves, the raising of standards of living, ensuring full employment and developing the full use of the resources of the world. Such a programme of action would require positive measures in many directions of economic policy, and through several of the international agencies which governments had set up to aid in bringing about the sort of world they wish to attain. He sincerely hoped, therefore, that the attention of governments would turn more on these basic problems than on the relatively unimportant questions of amendments or modifications of international instruments or international agencies. They could not, and should not delay this vigorous re-appraisal and attack on their economic problems because the longer they delay, the more deep-seated their troubles would become. If they faced these problems resolutely and promptly, and together, the problems would not prove insurmountable.

The Session closed at 12.40 p.m.

