

RESTRICTED

GATT/1/ER.11
22 March 1948

ORIGINAL: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE
FIRST SESSION OF THE CONTRACTING PARTIES
SUMMARY RECORD OF ELEVENTH MEETING

Held at the Capitolio, Havana, on 19 March 1948, at 10.30 a.m.

Document GATT/1/38.

Mr. ROYER (France) stated he would ask for modifications in the French text.

The CHAIRMAN suggested that the word "Resolution" should be replaced by "Decision" in the title.

Mr. AUGENTHALER (Czechoslovakia) lacking instructions, reserved his position.

Mr. LEDDY (United States) inquired whether the Secretariat could provide certified copies of the Decision.

The CHAIRMAN stated that the Secretariat would do so and the decision was approved.

Document GATT/1/39.

There were no comments and this document was approved.

Document GATT/1/41.

Mr. ROYER (France) stated he was still lacking instructions but felt the approval of his Government would be forthcoming.

After some minor drafting changes had been incorporated in the text, the document was approved.

Draft of Section VII of the Protocol (reference GATT/1/40).

Mr. BEYLEVELD (South Africa) and Mr. ROWE (Southern Rhodesia) said they could offer no comment until they had received instructions from their Governments.

Mr. MORTON (Australia) pointed out that his delegation had suggested the deletion of sub-paragraph (a), but Mr. SEACKLE (United Kingdom) and Mr. HASH (New Zealand) said that this would cause difficulties.

The paragraph was provisionally approved.

United Kingdom Proposal for a new paragraph 2 of Article XXIV of the Protocol on Supersession. (Reference GATT/1/42).

Mr. SEACKLE (United Kingdom) said that the draft was designed to

/provide for

provide for those cases where a party felt that it had received inequitable treatment at the hands of another.

Mr. GUTIERREZ (Cuba) and Mr. LAMSVELT (Netherlands) were opposed to such an inclusion but Mr. ROWE (Southern Rhodesia) and Mr. LEDDY (United States) were in favour of the proposal. The latter pointed out that if two contracting parties failed to apply the Agreement under Article XXXV, the present draft would make it possible for the CONTRACTING PARTIES to recommend such an application.

Mr. ROYER (France) said that the paragraph had been drafted to meet the case of Southern Rhodesia but it did not completely fulfil this aim. He had, however, no objection to its inclusion.

Mr. GUTIERREZ (Cuba) said that he was prepared to accept the proposal as a compromise.

The proposal was provisionally approved.

Revision of the Draft Protocol contained in document GATT/1/21 (Reference GATT/1/28).

Mr. ROYER (France) said that a point raised by Mr. GUTIERREZ (Cuba) might be met by including in Article XXXIV a provision to the effect that the signature of the Protocol by any government which was a contracting party to the General Agreement should have the same effect as the signature by that government of the Protocol of Provisional Application.

Mr. SHACKLE (United Kingdom) thought that this proposal would merely state what was already implicit in the draft, but he had no objection to it.

Mr. ROYER (France) in answer to a question by Mr. AUGENTHALER (Czechoslovakia) said that if a country signed on 20 March a problem did exist as to how the sixty-day provision could be waived. Such a country could apply the provisions of the Geneva Draft between 20 April and 1 May but from then on would have to apply the new draft.

Mr. NASH (New Zealand) said that he had supposed that a country's rights were secured up to 30 June. If the contracting parties decided unanimously to make a certain amendment, he asked whether another country which entered into the Agreement up to that date could or could not reject such an amendment.

Mr. LEDDY (United States) pointed out that only the contracting parties had the power to amend and that the power to sign up to 30 June did not constitute a power to amend. The case of Czechoslovakia was difficult although it might be possible to consider that country as a contracting party.

Mr. ROYER (France) said that it was expressly provided that the contracting parties had the right to amend and that other countries had the right to adhere to the Agreement. If an amendment were rejected by a country

/it would

it would continue to be bound by the original draft.

Mr. FORTHOMME (Belgium) said it would be difficult in the present circumstances to form an idea of the value of a signature appended to the new proposal.

Mr. LEDDY (United States) pointed out that countries would not be obligated to apply the Agreement definitively until eighty-five per cent of them had accepted.

Mr. NASH (New Zealand) said he would recommend the text to his Government if the supersession were clearly stated, but it would be difficult to make such a recommendation if he did not know whether amendments would be made or not.

Mr. COOMBS (Australia) suggested that another paragraph be added to the Article to the effect that the signature of a government which was at the time applying the General Agreement under the Protocol of Provisional Application should serve to commit that government to apply provisionally the Agreement as modified by the Protocol under discussion.

Mr. GUTIERREZ (Cuba) reserved his position on this proposal.

Mr. LEDDY (United States) suggested that a provision might be included to the effect that a country, when it signed the Protocol of Provisional Application at a later date, would apply the amended text.

It was agreed to defer discussion of this point.

Suggestions by the delegation of the United States on procedural matters (Reference GATT/1/36).

Paragraph 1.

Mr. COOMBS (Australia) and Mr. SHACKLE (United Kingdom) thought that there would be great convenience if the Second Ordinary Session coincided with the meetings of the Executive Committee of the Interim Commission.

Mr. LEDDY (United States) and Mr. GUTIERREZ (Cuba) thought that there was no necessity to hold a meeting in June but Mr. ROYER (France) and Mr. ADARKAR (India) observed that, since the Protocol of Provisional Application was only open for signature until 30 June, certain situations might arise which would make an earlier meeting desirable. After further discussion of the point it was agreed that the meeting should be convened at Geneva not before 1 July 1948 and not after 15 August 1948, preferably at the same time as the meeting of the Executive Committee of the Interim Commission of the ITO. The determination of the exact date was left to the discretion of the Chairman.

It was agreed on the proposal of Mr. HAKIM (Lebanon) that the second sentence of the paragraph should be amended to read "Participating observers, if any, should be invited to attend".

/Paragraph 2

Paragraph 2

After some discussion it was agreed that the paragraph should be revised to read "2. The Secretarial services for the Second Session should be provided by the staff of the Interim Commission of the ITO on conditions to be agreed between the contracting parties and the Interim Commission."

Paragraph 3 (a)

Mr. SHACKLE (United Kingdom) asked if it was necessary to specify particular items in this sub-paragraph.

Mr. GUTIERREZ (Cuba) and Mr. HAKIM (Lebanon) favoured the inclusion of this item in the Agenda.

Paragraph 3 (b) was approved, with the alteration of the words "as proposed" in (i) to "see proposal".

Paragraph 3 (c) was approved.

Paragraph 3 (d) was approved, with the insertion of the word "tariff" before "negotiations".

After a discussion between Mr. SKAUG (Norway) and Mr. ROYER (France), Mr. LEDDY (United States) said that if certain concessions had been initially negotiated with countries who had not signed the Protocol of Provisional Application by 30 June it would be legal to make those concessions applicable if other countries had a material interest. He supported this view by reference to Article XXVII. Such action would be legally possible no matter when a request was made under Article XXVII.

Paragraph 4

Mr. LACARTE, Deputy Executive Secretary, proposed the deletion of this paragraph on the ground that it would not ensure a proper continuity of the administrative system.

Mr. COOMBS (Australia) said that it would be inappropriate to have communications relating to the Second Session sent to an individual who was part of another organization. It would be preferable for the Executive Secretary of the Interim Commission to fulfil this function.

Mr. LEDDY (United States) said that he wished to withdraw paragraphs 2 and 4.

Paragraph 5

Mr. SKAUG (Norway), Mr. AULENTHALER (Czechoslovakia), Mr. ROYER (France), Mr. LAMBEVELT (Netherlands), Mr. LOPES RODRIGUES (Brazil) and Mr. COOMBS (Australia) saw disadvantage in the procedure suggested in paragraph 5. It would not necessarily be convenient to hold an emergency meeting in New York and countries might not wish to delegate authority to a member of their permanent United Nations representation. The Chairman should be given responsibility for convening a meeting and should himself be the

/judge of

judge of where was the most suitable place to hold it.

Mr. LEDDY (United States) opposed this view on the ground that all countries had representatives in New York who were competent to deal with this matter. If paragraph 5 was not accepted he would have to seek instructions from his Government.

The meeting roge at 1.15 p.m.
