GENERAL AGREEMENT ON
TARIFFS AND TRADE

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GATT/CPS/SR.3
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CONTRACTING PARTIES
Special Session, 1951

SUMMARY RECORD OF THE THIRD MEETING

Held at the Marine Spa, Torquay, on Saturday, 31 March 1951 at 2.30 p.m.

Chairman: Mr. J. MELANDER (Norway)

Subject discussed: Problem of the disparity of European tariffs (continued)

The CHAIRMAN resumed the discussion on the proposal for the establishment of a working party, contained in document GATT/CP/103. The main points to be decided were (1) whether a working party of the Contracting Parties should be established; (2) its membership; (3) its terms of reference; (4) the meeting place, and (5) its relationship with other bodies. It already appeared from the general discussion which had taken place that there was agreement that a GATT working party should be established.

Mr. VAN BLANKENSTEIN (Netherlands) said that his agreement on this point depended, of course, on the terms of reference and membership.

The CHAIRMAN said that this was understood.

(2) Membership:

Mr. MOORE (United States) proposed an amendment to paragraph 2 to allow the working party to invite member countries of the OEEC not members of GATT to take part in its work.

Mr. COHEN (United Kingdom) considered it difficult to settle the membership before the terms of reference. He felt hesitant in any case about a suggestion for non-contracting parties to take part in the working party.

The CHAIRMAN, on two questions of order, considered, firstly that a preliminary discussion on membership could usefully take place at this stage and, secondly, that, although the Memorandum signed by the ten countries could clearly not be amended as such by the Contracting Parties, it could, however, for the purposes of the present discussion, be considered as a draft resolution.

Mr. AHMAD (Pakistan) wondered why a departure from the normal GATT procedure for the establishment of working parties, whereby working parties were composed of all the countries directly interested and three or four disinterested parties, was being requested.

Mr. MOORE (United States) proposed three further amendments to the terms of reference, first, the insertion of a preamble, second, the amendment of paragraph 3(b) so as to specify Article 6 of the OEEC convention, and third, that any proposal made by the working party should conform to the principles of the General Agreement.

Mr. ROHAC (Czechoslovakia) thought it difficult to discuss the membership until the type of working party were agreed upon. At present it appeared to him that two quite different working parties were being proposed. The Memorandum of the ten countries proposed a working party of restricted membership to deal with a particular problem. The United Kingdom proposal was for a normal GATT working party to deal with the wider problem which was of interest to the Contracting Parties as a whole.

The CHAIRMAN thought there was no question of excluding any contracting parties from membership in the working party. The discussion was now centred on whether non-GATT members should be invited to participate as provided for in the United States amendment.

Mr. VAN BLANKENSTEIN (Netherlands) referred to the question raised by the representative of Pakistan. The proposals for the composition of the working party had been based on the idea that it would deal with the equalisation of European tariffs on a multilateral basis rather than by mutual concessions, and all interested countries would naturally have to take part. This might include some OEEC countries who were not members of the GATT but, apart from the United States and Canada, there were very few non-European countries with a specific interest in the operation. There was no desire, however, on the part of the European countries to be exclusive, and if other contracting parties wished to take part in the working party, it should be possible. Their position must be made quite clear, however, since they would presumably not be engaged in the levelling process.

Mr. DESAI (India) thought it illogical to establish a GATT working party which would exclude certain contracting parties and include certain non-contracting parties.

Mr. SOLBERG (Norway) thought that if this problem were approached as primarily a GATT rather than an OEEC one, there should be no objection to other than European countries being members of the working party. That had, after all, shown considerable interest in the problem.

The CHAIRMAN suggested that further discussion of membership await settlement of the terms of reference.

(3) Terms of Reference:

Mr. COHEN (United Kingdom) proposed the following changes in the terms of reference contained in GATT/CP/103. Paragraphs a), b) and c) of the United Kingdom proposal (GATT/CPS/4) should be inserted before sub-paragraph 3 a); paragraph d) in GATT/CPS/4, with the alteration of the last phrase of (i) to read "tariffs of countries associated with the OEEC" should be substituted for sub-paragraph 3 a); sub-paragraph b) should be deleted and c) slightly amended.

Mr. SOLBERG (Norway) preferred the present wording of paragraph 3, except for sub-paragraph b) in which he proposed deleting the references to the OEEC and substituting the "objectives of the GATT". A working party of the contracting parties which would contain non-OEEC members could hardly consider the problem from the viewpoint of the OEEC.

Mr. ROHAC (Czechoslovakia) thought that if the objectives of the OEEC and the GATT were identical it was superfluous to refer to the former. If they were not, a GATT working party could hardly be instructed to take them into account.

M. CASSIERS (Belgium) did not object to the inclusion of paragraphs a), b), and c) of the United Kingdom proposal, but considered the retention of sub-paragraph b) of the memorandum essential. Support for all efforts to eliminate barriers to trade was a fundamental principle of GATT. While, in one sense, the problem could be looked upon as a purely regional one which should be settled by the countries concerned before it came before the Contracting Parties, the wider interest of the Agreement itself was involved because the problem of high and low tariff countries was a general one and the present procedures of the Agreement were evidently incapable of dealing with it. The OEEC had found that the trade liberalization programme could not be separated from tariff barriers and the problem of disparities in tariff levels had consequently become one of immediate urgency to the European countries. The OEEC had decided to refer this problem to the Contracting Parties, despite objections that

the machinery of the Agreement was not suitable for a problem the solution of which depended on the idea of equalisation rather than of equal exchange of benefits, with no compulsion to make concessions except in payment for other concessions. It had been found in Torquay that, although the OEEC governments had undertaken to instruct their delegations to take account of the problem of high and low tariff countries in the tariff negotiations, this had not in reality had any effect on the negotiations. Furthermore, the rule regarding the binding of a low rate of duty had scarcely been applied. In fact, it was by now evident that the procedures of the Agreement were no longer adequate to the situation. The proposal of the ten countries then was that a working party examine the disparities of tariffs and methods of improving the present procedures of the Agreement, recognizing that the urgent immediate problem was the European one. The Contracting Parties were asked to assist them in this task in view of their experience of tariff matters. If there were no obligation on the part of the Contracting Parties to do so, it must nevertheless be pointed out that, without their assistance, the European countries would have no alternative but to attempt to settle the problem within the OEEC with possible consequences to the multilateral and most-favoured-nation principles of the Agreement.

With regard to other parts of the United Kingdom proposal, M. CASSIERS preferred that there should be no time limit for the presentation of the report of the working party, and considered Paris a more suitable place than Geneva for its work.

The CHAIRMAN asked for the views of the meeting on the proposal to amend paragraph 3 (a) to read as paragraph (d) of the United Kingdom proposal.

Mr. VAN BLANKENSTEIN considered that the United Kingdom proposal, by eliminating any reference to Europe, would result in consideration by the working party of a totally different problem than that listed on the agenda. He would not oppose a discussion of the general problem, but it should then be under another agenda item. The question at issue was whether the Agreement was capable of dealing with a purely regional problem or whether the European countries would have to deal with this problem within their own organisation of the OEEC.

Mr. REISMAN (Canada) agreed that the item on the agenda was the disparity of European tariff levels, but referred to the United Kingdom oral amendment of paragraph (d)(i) to "countries associated with the OEEC". This was quite close to the proposal in the Memorandum.

Mr. PAPADAKIS (Greece) and Mr. CLARK (Australia) supported the the United Kingdom amendment.

Mr. VAN BLANKENSTEIN (Netherlands) nevertheless continued to oppose the United Kingdom amendment. The words "associated with the OEEC" would include the United States and Canada, and it had not been the intention of the countries who signed the Memorandum to discuss disparities between European and Canadian and United States tariffs. Furthermore the United States and Canada had made it quite clear that, although they might be willing to make compensatorz concessions, they could not take part in any levelling process.

Mr. MOORE (United States) suggested that the words be altered to read "countries which are members of the OEEC".

Mr. REISMAN (Canada) and Mr. GISLE (Sweden) supported the proposal as amended by the United States.

Mr. COHEN (United Kingdom) said that although they had hoped by their wording to allow the working party a maximum of flexibility he would not insist if the United States and Canada felt unable to accept that wording.

Mr. VAN BLANKENSTEIN said that, apart from this change, there were a number of minor alterations which it was difficult to assess at such short notice. The original draft had been, as the United Kingdom was well aware, the result of a very difficult compromise and until he was convinced that the altered wording did not alter the sense, he must continue to oppose the amendment.

M. CASSIERS (Belgium) supported this view and referred particularly to the insertion of the word "significant" before "disparities in the tariffs" although the word "significant" was not used in referring to disparities in the economic and social structures of the different countries.

The CHAIRMAN found that there was certain support for the United Kingdom amendment as amended by the United States and proposed to close the discussion on 3(a) for the time being and proceed to 3(b). Amendments to this sub-paragraph had been suggested by the United States and Norway and the United Kingdom had proposed its complete deletion.

Mr. COHEN (United Kingdom) explained that in their view this paragraph added nothing to what was already provided for in the previous paragraph. If, however, reference were to be made to the OEEC he preferred the wording of the United States amendment which referred specifically to Article 6 of the OEEC Convention. He also thought that whatever Decisions of the OEEC were to be taken into account should be specified.

Mr. CASSIERS (Belgium) considered that a development and extension of the principles and procedures relating to tariffs which would at the same time retain the basic principles of the Agreement were essential to the solution of the European problem. It was also necessary for European countries in considering their own problem to bear in mind the purposes and principles of the OEEC. He therefore opposed any wording that would confine the Working Party strictly to the actual procedures of the Havana Charter or the Agreement.

The CHAIRMAN thought that there was a substantive difference between paragraph 3(b) as contained in document GATT/CP/103 and 3(b) as amended by the United States. The amendment meant that the working party should seek solutions within the existing principles and rules of the Agreement, i.e., either through customs unions or free trade areas or by means of obtaining concessions from countries outside of Europe to enable reductions in European tariffs to be applied on a non-discriminatory basis. The original document, however, opened the possibility for the working party to seek solutions which would not at the present time be in conformity with the Agreement, perhaps along the lines of the Schuman Plan, involving some sort of preferential system. The Contracting Parties should realise that the original paper opened possibilities of solutions which would involve either amendment to the agreement or general waivers.

Mr. REISMAN (Canada) said that paragraph 3(b) had given his delegation much difficulty precisely for the reasons set forth by the Chairman. In supporting the proposal to establish a working party, the Canadian Delegation was in favour of a real effort to overcome the disparities in European tariffs in accordance with the most-favoured-nation multilateral principles of the Agreement. He would support the intent of the United States proposal, but thought that words might possibly be found to meet the proposal of the Belgian representative that the procedures of the GATT might be altered while retaining the principles.

M. CASSIERS (Belgium) said that there had never been any idea of establishing a preferential system or denying the most-favoured-nation principles. He considered that there was one principle of the Agreement, however, that should not be invoked against any solution that might be found and that was the principle that concessions were granted only in return for equivalent concessions. Perhaps the point of the Chairman and the Canadian representative could be met by the addition at the end of sub-paragraph (b) of the words "which will be in conformity with the general objectives of the Agreement".

M. LECUYER (France) had no objection either to the United States or the Belgian amendment. The possibility of finding a solution along the lines of the Schuman Plan should be envisaged, although not of course by a GATT working party.

Mr. MOORE (United States) agreed to the Belgian amendment.

Mr. ROHAC (Czechoslovakia) said that paragraph 3(b) appeared to give the working party the opportunity to consider procedures which might contravene the principles of the Agreement. The Contracting Parties should oppose any such intention. A situation might arise whereby a contracting party found that the present wording of the Agreement was causing it difficulty and this would of course be considered sympathetically by the Contracting Parties, but no working party should be set up to consider proposals that were outside the scope of the Agreement since one of the main duties of the Contracting Parties was to safeguard these principles.

Mr. VAN BLANKENSTEIN supported the Belgian amendment. The discussions showed some fear that the working party was intended to find solutions which would be opposed to the rule of non-discrimination. He wished to make it clear that the original Benelux proposals, as well as the Memorandum, had consistently tried to find a solution to this problem that would be non-discriminatory and in accordance with the principles of the Agreement. If it proved impossible to obtain a levelling of the European tariffs within the principles of the Agreement some countries might be forced to look for other solutions, but they would certainly not do so in a working party of the Contracting Parties.

The CHAIRMAN thought that the Contracting Parties must be clear as to the terms of reference and considered the word "objectives" rather vague. The point at issue was whether the working party should be allowed to evolve proposals which might be contrary to the principles of the Agreement.

Mr. DESAI (India) thought that the reference to the OEEC might be eliminated and "European" tariffs specified. If any othe proposals were involved, they should be set out in specific terms.

Mr. SVEINBJØRNSSON (Denmark) said that so long as the countries were parties to the Agreement they would, of course, keep to its rules.

M. CASSIERS (Belgium) repeated that there was no intention to evolve proposals contrary to the Agreement. It was, however, quite another thing to say that the proposals must be in accordance with the procedures of the Agreement, since these could be improved upon.

The CHAIRMAN thought there appeared to be a fundamental difference as to the terms of reference. Certain contracting parties felt that the working party should be empowered to make proposals which, although within the objectives of the OEEC and the General Agreement, might be against the principles of the latter while other contracting parties felt that the proposals must be in strict accord with the principles of the Agreement.

Mr. REISMAN (Canada) felt that, after the Netherlands representative's statement asserting their intention to maintain the most-favoured-nation principle, agreement on substance, if not on the drafting, of the terms of reference was close.

The CHAIRMAN suggested leaving this paragraph and proceeding to 3(c).

The United Kingdom suggestion that the report appear a month before the Sixth Session began was agreed.

Mr. COHEN (United Kingdom) referred to the three paragraphs a), b) and c) which the United Kingdom had suggested be inserted into the terms of reference. A concession as to the present working of the negotiating procedures had been expressed by certain delegations; it was for this reason precisely that his Delegation had suggested a general investigation of these procedures.

Mr. VAN BLANKENSTEIN (Netherlands) considered the proposals of paragraphs a), b) and c) of the United Kingdom proposal out of order. They would broaden the scope of the working party so far beyond the intent of the item on the Agenda as to make it impossible to deal with the subject on the Agenda.

The CHAIRMAN said that he could not rule and amendment to the terms of reference out of order.

M. CASSIERS (Belgium) wondered whether the general study proposed by the United Kingdom could not be placed on the agenda of the Sixth Session. He agreed on the importance of the question, but considered that it would lay too heavy a burden on the proposed working party.

Mr. COHEN (United Kingdom) suggested that the difficulty might be met by splitting the working party into two sections - one to deal with negotiating procedures and one to deal with the specific European problem. This would also solve the question of membership since the non-European members would be specially interested in the first problem. The overall problem of procedures would thus be studied by a GATT working party at the same time as the specific one and co-ordinated recommendations could be hoped for.

Mr. MOORE (United States) thought that the problems set out in paragraphs a), b) and c) were of a kind which might in any case arise during the course of the discussion of the European problem. It would perhaps be more effective to focus the working party discussion on the European problem. The wider problem could then be raised at the Sixth Session where a somewhat different working party might be established to deal with it.

Mr. ROHAC (Czechoslovakia) supported the inclusion of the three paragraphs in the terms of reference of the Working party. These were precisely the aspects of the question which would enable other countries to make a useful contribution to the Working Party, and they would not impair the interests of the OEEC countries.

Mr. SOLBERG (Norway), Mr. VAN BLANKENSTEIN (Netherlands) and M. LECUYER (France) supported the Belgian and United States proposal to defer this problem to the Sixth Session.

Mr. DESAI (India) supported the inclusion of the three paragraphs proposed by the United Kingdom. The investigation must be as to why and in what way the GATT procedures were inadequate to solve the specific problem of European tariffs, and to what extent any remedies proposed would fall within the principles of the Agreement. If the terms of reference of the Working Party were confined only to the European aspect of the problem, there was no reason to set up a GATT working party; but if the Contracting Parties themselves were to try to find a solution, the terms of reference of the working party must be sufficiently general to allow it to work out general principles and procedures on which to base a specific solution.

Mr. COHEN (United Kingdom) agreed with the Indian representative, and did not see what real objections there were to the insertion of these three paragraphs. If it was genuinely desired to find a solution to the problem, the Contracting Parties could not afford to neglect the empirical study which was proposed.

The meeting adjourned at 7 p.m.