

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
LIMITED B
GATT/CP.6/SR.20
26 October 1951
ORIGINAL: ENGLISH

CONTRACTING PARTIES
Sixth Session

SUMMARY RECORD OF THE TWENTIETH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 October, 1951 at 2.30 p.m.

Chairman: Mr. Johan MELANDER (Norway)

- Subjects discussed:
1. Belgian Import Restrictions.
 2. Free Entry into Italy of Libyan Goods.
 3. Article XX Time Limit.
 4. Unfinished Article XXVIII Negotiations.
 5. Status of Protocols and Schedules -
Application of Schedule III (Brazil).

1. Quantitative Import Restrictions applied by Belgium

M. SUETENS (Belgium) stated that a problem of fundamental importance faced the Belgium-Luxemburg Economic Union (B.L.E.U.). This was the prevention of inflation within their countries which could result from the pressure of the accumulation of credits accorded to foreign countries, particularly in the past nine months. In order to save the exchange value of the Belgian franc, urgent measures had become necessary since Belgium's creditor position was growing at an alarming speed. This creditor position, however, existed mainly with the countries belonging to the European Payments Union while, on the other hand, a growing deficit had to be faced with the dollar area. A solution to the problem of the Belgium-Luxemburg Economic Union which would reduce its creditor position with the European Payments Union, and, at the same time, improve its debtor position with the dollar area was therefore needed.

In order to limit further unwanted credit increases with the European Payments Union area, the following measures had been taken:

- (1) a limitation of exports to that area;
- (2) a strict control on the nature and origin of payments received from that area;
- (3) a waiver of the obligation to repatriate foreign exchange resulting from Belgian exports to European Payments Union countries;
- (4) a levy of 5% on the value of all exports to the European Payments Union area and the

- blocking of these sums for a period of six months; and
- (5) restriction on imports from dollar countries, a measure taken so as to encourage imports from countries belonging to the European Payments Union area.

All these measures had been taken in order to reduce the amount of credit which the Belgium-Luxemburg Economic Union was granting. They were, of course, interrelated, but from the point of view of the Contracting Parties, the last-mentioned measure was no doubt the most important. He wanted to stress however that, in this case, there was no question of imports restrictions in the sense generally understood under the General Agreement. He pointed out that the Belgium-Luxemburg Economic Union had made proposals along these lines to the Council of the European Payments Union, which had been accepted by the Council's Decision of 19 October 1951, requesting Belgium and Luxemburg to encourage an increase in the imports from Organization for European Economic Cooperation countries at the earliest opportunity. Under these circumstances, he contended that the measures taken were essentially of an exchange control character, and as such were in agreement with the rules of the International Monetary Fund and Article XV: 9 of the General Agreement. The Belgian and Luxemburg Governments, however, intended to limit to a minimum the period of application.

Mr. LEDDY (United States) stated that his Government was disturbed to learn that the Belgian Government had imposed quantitative restrictions against goods imported from the United States. Although the restrictions had not yet been published, it appeared that they had entered into effect, and licences for such goods were at present being denied. It was estimated that these measures might result in a reduction of United States exports to Belgium of 18%. His Government was of the opinion that this would have serious consequences for the future of the General Agreement, particularly since the Belgian measures had been taken at a time when the reserves of gold and dollar resources of Belgium were increasing from levels not hitherto regarded as unduly low. He referred to the obligations under Articles XII:2(a) and 4(a) and of Article X. The Belgian delegate had described the measures as permissible under Article XV of the General Agreement and XIV of the Articles of Agreement of the International Monetary Fund. The United States Government was unable to accept this reasoning as they did not feel that the General Agreement provisions were designed to permit balance-of-payment restrictions to escape from the tests and requirements of Article XII. It appeared that these restrictions were devised to give special protection in the Belgian market to goods from Western European countries at the expense of those from dollar countries and not to protect Belgian dollar reserves. Neither the General Agreement nor the Articles of Agreement of the International Monetary Fund permitted the imposition of such restrictions except when justified by the balance-of-payments position of the country concerned. With regard to the Decision of the Organization for European Economic Cooperation, he would point out that it only requested the Belgium-Luxemburg Economic Union to take such measures as were "open" to them to encourage imports from member countries. In his Government's view the measures in question could not be said to be open to the Belgium-Luxemburg Economic Union governments under the General Agreement, and furthermore, another

international organization, regional in character, had no authority to set aside the obligations of Belgium under the General Agreement on Tariffs and Trade. His Government did not, finally, consider these import restrictions necessary for the operation of the European Payments Union. He asked that the normal procedure of the General Agreement be followed; that a working party be set up in order to decide, in consultation with the International Monetary Fund, whether these restrictions met the balance-of-payments criteria set out in the Agreement, and to report to the Contracting Parties.

Mr. ISBISTER (Canada) stated that for some time his Government had been aware of quantitative restrictions imposed by the Belgian Government, although no official announcement or explanation had been issued. A long list of products was involved and Canadian export trade had been immediately affected. His Delegation had on several occasions made representations to the Belgian Delegation. In the view of his Delegation the Belgian Government had a clear obligation under Article XII to consult with the Contracting Parties before instituting these restrictions. The proper procedure now would seem to be for the Belgian Government to withdraw the restrictions and to initiate consultations in the proper way. It was said by the Belgian Delegation that these measures were necessitated, not by Belgium's own position but for reasons connected with the European Payments Union. His Government was not aware that the European Payments Union or the Organization for European Economic Cooperation had made any recommendations about the imposition of dollar restrictions by Belgium; the European Payments Union had no jurisdiction over dollar import restrictions. Furthermore, dollar control appeared to his Government to have little relevance to a solution of the real problems facing the European Payments Union.

Already many people considered that benefits from the tariff concessions were withheld by virtue of quantitative restrictions imposed in many countries. Very little meaning would remain to the General Agreement if a country could impose quantitative restrictions for reasons outside the terms of the Agreement and without the consultations required. The question was whether the General Agreement on Tariffs and Trade was to continue as an effective basis of commercial policy. With this in mind, he appealed to the Belgian Government to remove these restrictions. If they were still considered necessary, it would then be open to them to initiate consultations under Article XII of the Agreement.

Mr. CALDER (United Kingdom) stressed the importance of realising the nature of the issues which were involved. The action of the Belgian Government in imposing the restrictions was related to the affairs of the European Payments Union, which, though limited in membership compared with the Contracting Parties, had within its own domain objectives which accord entirely with those of the General Agreement. It sought to promote, within its sphere, convertibility of currencies and removal of trade restrictions, and had made most notable progress towards these aims. It had not only secured, for the first time since the war, inter-convertibility of all Western European currencies, but had also brought the Western European governments to review their trade restrictions against each other - to examine whether the maintenance of any given restriction could still be justified rather than whether its removal could be risked. This was indeed an achievement, considering the general position and attitude prevailing

only two years ago. The Contracting Parties would do well to bear in mind that the European Payments Union was now passing through a very difficult stage in its career and that the Belgian problem, being a critical factor in this situation, must be considered in the wider setting in which it was placed. If, through precipitate action here, time was not afforded for a solution to be found to the problem in which it was now engaged, the whole effort and initiative that the European Payments Union represented would be beset by troubles from which it might not emerge unscathed, or might not emerge at all. He wished to make it plain that he was not taking any position as to the justification of the particular measures taken by Belgium; he was only appealing to the Contracting Parties to approach this matter with a full realisation of what was bound up with it, and suggesting that the Contracting Parties should avoid hasty judgments which could embarrass the efforts of those who were now engaged in attempting to solve the problem before the European Payments Union. The Belgian representative had stated clearly his position, and had said that the restrictions were, in the opinion of his Government, justifiable under Article XV, paragraph 9 of the General Agreement read in conjunction with Article XIV of the Fund Agreement, but had added that he had no wish to evade any obligation under the General Agreement and that his Government stood ready to consult the Contracting Parties. The matter indeed appeared to be appropriate for consideration by the Contracting Parties, since the restrictions in question seemed to be essentially trade restrictions. The United Kingdom Delegation was inclined at first sight to consider the matter should be dealt with under Article XII: 4(a) as this provided for consultation extending over the widest possible area. Mr. Calder hoped that it would be possible to set up a working party to proceed with a consultation, in which all aspects of the Belgian restrictions as affecting all the contracting parties concerned would be fully discussed. The working party should report to the Contracting Parties in the normal way.

M. LECUYER (France) felt that the Contracting Parties now obviously found themselves in a difficult situation. The problem, owing to its urgent nature, required a solution which the Contracting Parties must endeavour to find without delay. Although some aspects of the problem might not be within the competence of the Contracting Parties, at least a part of the problem, concerning the restriction of trade, must be dealt with by the Contracting Parties. Various provisions of the Agreement had been referred to by different representatives as being applicable to the case. But the Contracting Parties should recognise the importance of the general spirit of the Agreement and a right solution might be found in examining the problem in that spirit without going into the legal intricacies of the various provisions of the Agreement. The Belgian representative having put forward his case clearly and frankly it was the duty of the Contracting Parties to explore all possible ways of solving the question. He therefore agreed with the United Kingdom representative that, considering the willingness on the part of Belgium to consult with the Contracting Parties, a working party should be set up and given ample time and facilities to study all aspects of the restrictions, taking fully into account the position of Belgium in the European Payments Union.

Mr. VARGAS GOMEZ (Cuba) said that although it was common knowledge that the restrictions had been applied, many relevant facts were still un-

known, e.g. the present financial position of Belgium, the scope of the restrictive measures applied, the items affected by these restrictions, and so forth. For this reason his Delegation was not in a position to make a responsible judgment of the issues involved. In addition to all this information, there was need for a full discussion with the Delegations of Belgium and the other contracting parties affected with the assistance of representatives of the Fund. Generally speaking, the Cuban Government regretted that a new case of trade restriction had arisen. As a general policy his Government was against all trade restrictions which could not be justified on balance-of-payment grounds. Apart from the adverse effects they had on the interests of Cuba, his Government was concerned about these restrictions also because the general objectives of the Agreement were impaired. However, his Delegation did not intend to prejudge the case and would define its position only after the problem had been fully discussed. Article XII: 4(a) requires any contracting party which might wish to apply restrictions, to consult with the Contracting Parties, an obligation which should now be carried out by the Belgian Government.

Mr. Vargas Gomez further emphasised the intention of his Government to follow a policy of absolute equity with regard to countries applying restrictions; it would not acquiesce in the action of some countries while being critical of others. Furthermore, its action would be guided by the principle of fully respecting the provisions of the Agreement; while accepting those restrictions which were applied genuinely because of external financial difficulties his Government would oppose with all its energy the application of restrictions unjustifiable under the terms of the Agreement, irrespective of which country or group of countries might be applying them.

M. SUETENS (Belgium) acknowledged that the balance of payments of Belgium was in a buoyant position; but the deficit with dollar countries could not be covered by the surplus with others because of the inconvertibility of many currencies. As there was no balance-of-payments difficulty, strictly within the meaning of Article XII of the Agreement, the case should not be considered under that Article. Whatever the wording of the Organization for European Economic Cooperation resolution, his Government had no intention of defending its action on that account, since no action taken by another organization could relieve Belgium of its obligation under the General Agreement. The case should be considered under Article XV, paragraph 9, as had been suggested. However, the Belgian Delegation would agree to consult the Contracting Parties, under Article XII, on the application of these restrictions, although in the opinion of his Government, it was within its right to refuse to enter into such consultations. These trade restrictions could be dispensed with if the other measures which had been taken should prove successful in rectifying the situation. Though the decision to apply the restrictions had been taken on September 10, they were regarded as experimental until October 15, since time was needed for testing their adequacy. In conclusion, M. Suetens accepted the proposal that a working party should be established to examine ways and means of conducting a consultation. His Delegation could not accept in advance the applicability of Article XII, but would wish to have this question examined in a wider setting and within the general spirit of the Agreement.

Mr. LEDDY (United States) supported the United Kingdom proposal that the question should be examined under Article XII: 4(a) by an inter-sessional working party with terms of reference similar to those given at a past session to the group studying the South African import restrictions. Article XV of the Agreement must not be so interpreted as to remove a contracting party's obligation under Article XII of the Agreement, for otherwise the provisions of Article XII would be nullified. This was clearly a matter for study both by the Fund and by the Contracting Parties, and as far as the latter were concerned the usual procedure would be to start examination under Article XII. In so far as it related to import restrictions applied for balance-of-payment reasons, the question should be studied only under Article XII of the Agreement, and no useful purpose would be served by giving a working party very general terms of reference.

The CHAIRMAN concluded that, whilst there seemed to be general agreement that the matter should be examined by a working party, there was a division of opinion on the provisions of the Agreement which would be applicable. The United Kingdom and the United States representatives had proposed that the question should be studied under Article XII:4(a) but the representatives of Belgium and France were of the opinion that the consultations should be initiated under Article XXII. In view of the difficulty of formulating terms of reference for a working party which would be acceptable to all he would suggest that the discussion be adjourned until a later meeting.

Mr. ISBISTER (Canada) drew attention to the position of his Delegation which had expressed doubt as to whether it would be possible to formulate acceptable terms of reference for a working party.

As suggested by the CHAIRMAN, the discussion was adjourned.

2. Italian request for a Waiver under Article XXV to permit the Continued Free Entry of Libyan Products (GATT/CP.6/35)

Mr. DI NOLA (Italy) apologized for introducing this item at such a late time in the Session and explained that owing to circumstances this could not have been done at an earlier date. The Italian representative on the United Nations Council for Libya had announced on September 26, to a committee of the Council, that Italy was prepared to give economic assistance to Libya by continuing the application of the present special treatment to Libyan products imported into Italy. The present proposal had been made with a view to reconciling this action with Italy's obligations under the Agreement. After outlining the grounds on which the application was based, as set forth in document GATT/CP.6/35, Mr. Di Nola requested that the Contracting Parties should decide, on the basis of Article XXV:5(a), to waive Italy's obligation under Article I of the Agreement to the extent necessary for the continued application of the existing special treatment to Libyan products until the end of 1952. In view of the difficulties which would be caused to Libya when it came into existence as an independent kingdom on January 1, 1952, if the present special treatment were discontinued, his Delegation made the request at this Session rather than wait until the next Session of the Contracting Parties.

It was agreed that this item be added to the agenda of the Session.

M. LECUYER (France) pointed out that the request was for a waiver to be effective only for a limited period of time, relating to an existing measure applied by Italy in the interest of another country and affecting only a limited number of products. Had there been more time the Contracting Parties would be justified in requesting additional information to support the case, but in view of the urgent nature of the matter a temporary waiver could be granted by the Contracting Parties on the understanding that when the question came up again for consideration fuller information would be supplied by the Italian Government. In these circumstances the French Delegation would support the proposal of the Italian representative.

Mr. LEDDY (United States) felt that the Contracting Parties should grant the request of the Italian Government as otherwise serious damage might be caused to the Libyan economy. However, such a waiver should be applicable only with respect to the existing régime and should not be applied to any other Libyan exports to Italy. The period of its application need not be extended to the end of 1952; taking account of the time which might be needed for adjustment to be made consequent upon any decision by the Contracting Parties at the Seventh Session, the temporary waiver to be granted now should be made effective until September 1, 1952. As regards the statement by the Italian Delegation that "it reserved the right to request a final decision if necessary at the Seventh Session and in any event not later than 31 December 1952", Mr. Leddy suggested that the Italian Government should undertake to make the request at the Seventh Session.

Mr. BORRESEN (Norway) said that his delegation had some difficulty in accepting the proposal put forward by the Italian Delegation at this stage. Since Norway was interested in some of the products in question his Delegation had to refer to its Government for instructions. However, his Delegation would not object to a decision being taken. He suggested that the Italian Government be requested to submit full information before the next session.

The CHAIRMAN summed up the discussion and concluded that it was agreed in principle to grant a temporary waiver. He suggested that the Executive Secretary be asked to prepare a formal decision for approval. This was agreed.

3. Decision on Extension of the Time Limit fixed in Part II of Article XX. (GATT/CP.6/38) (Continued Discussion).

The CHAIRMAN recalled that the Contracting Parties had agreed at the tenth meeting on September 24 to extend the time limit in Part II of Article XX for two years, and proposed the adoption of the Decision drafted by the Executive Secretary (GATT/CP.6/38).

At the proposal of Mr. LECKIE (United Kingdom), the third recital of the Decision was changed to read "Whereas these conditions have still not improved sufficiently to permit the general removal of measures maintained under the said provisions".

The proposal was supported by Mr. BORRESEN (Norway) and Mr. LEDDY (United States).

The decision was adopted by 31 votes to none.

Mr. PRESS (New Zealand) recalled the reservation which he had made during the preliminary discussion of the question. He requested that the reservation be recorded so as to leave no room for doubt as to the right of any contracting party to raise, if a revision of the Agreement should be undertaken in the two year period, the question of according different treatment to paragraphs (a) and (b) on the one hand and (c) on the other in Part II of Article XX.

Mr. SVEINBJØRNSSON (Denmark) and Mr. SAHLIN (Sweden) associated themselves with the remarks of the New Zealand representative.

It was agreed that the reservation should be duly recorded.

4. Results of Negotiations under Article XXVIII unfinished at Torquay (GATT/CP.6/37)

The CHAIRMAN recalled that at the eighth meeting on September 21 it was agreed to extend the time limit for the conclusion of negotiations between Cuba and the United States under Article XXVIII from 1 July 1951 to the opening of the Seventh Session, and proposed the adoption of the draft decision prepared by the Executive Secretary (GATT/CP.6/37).

The Decision was adopted by 32 votes to none.

5. Status of Protocols and Schedules - Application by Brazil of Schedule III in the Annex Protocol of Terms of Accession (GATT/CP.6/39)

The CHAIRMAN recalled the agreement reached at the eighth meeting on September 21 to extend to December 31, 1951 the time limit for Brazil to notify its intention to apply the concessions provided for in Schedule III in Annex A to the Annex Protocol and proposed the adoption of the Decision prepared by the Executive Secretary (GATT/CP.6/39).

This was adopted by 31 votes to none.

The meeting rose at 6.30 p.m.

