

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Ninth Session

SUMMARY RECORD OF THE FIFTH MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 November 1954, at 3 p.m.

Chairman: H.E. Mr. L. Dana WILGRESS (Canada)

- Subjects discussed:
1. Balance-of-Payment Import Restrictions
 2. United Kingdom Waiver on Article I
 3. Australia/Papua-New Guinea
 4. South Africa/S. Rhodesia Customs Union
 5. Article XVIII Applications: Application by Cuba
 6. Samples Convention
 7. Greek Request to Renegotiate Four Items in Schedule XXV

The CHAIRMAN read a telegram from Mr. Sergio I. Clark, Chairman of the Havana Conference, as follows: "Best wishes for success of Conference, best regards to you and all my ex-colleagues."

1. Balance-of-Payment Import Restrictions (L/194/Rev.1)

The CHAIRMAN referred to the note on the initiation of consultations in 1954 under Article XIV:1(g) (L/194/Rev.1). The CONTRACTING PARTIES would note that five contracting parties had initiated consultations on the discriminatory application of restrictions on imports which they maintained under Article XII. These consultations would be conducted at this Session and in respect of each of these the CONTRACTING PARTIES had initiated a consultation with the International Monetary Fund as required by Article XV:2.

Mr. ANDERSON (IMF) referred to the Fund's letter of 9 July 1954 stating that the Fund would carry out consultations with the Governments of Australia, Ceylon, New Zealand and the United Kingdom. Since the Fund would have no consultations with New Zealand, it would contact that Government directly for the information necessary for consultation with the CONTRACTING PARTIES. The letter also stated that consultations with Ceylon and the United Kingdom would be completed not before the opening of the Ninth Session but in time to allow their results, together with the background papers, to be communicated to the CONTRACTING PARTIES during the Session, and that with respect to Australia's 1954 consultation, the relevant information would be transmitted before the opening of the Session.

The present situation was much as outlined in the letter. The results and background papers of the consultations with Australia had been transmitted. The Fund had been in informal contact with the New Zealand Government and submitted to it certain draft material which would be revised for transmission to the CONTRACTING PARTIES as soon as the Fund heard from New Zealand. Staff discussions with United Kingdom authorities would begin on 8 November. It had originally been that the staff discussion phase of the Fund's consultation with Ceylon could take place in Ceylon early in 1955, but in an effort to meet the needs of the CONTRACTING PARTIES, Ceylon and the Fund had agreed to an earlier consultation which was expected to be concluded in December. With respect to the Article XIV:1(g) consultations recently initiated with the Federation of Rhodesia and Nyasaland, Mr. Anderson explained that, in the Fund, the Federation was covered by the consultation with the United Kingdom. It was difficult at this stage to say exactly what would be done in the way of presenting separate background material for the Federation but he hoped to be able later to advise the CONTRACTING PARTIES, or the Working Party, on the matter.

The CHAIRMAN thanked the representative of the Fund for his statement and referred to the preparation of the Annual Report under Article XIV:1(g). The report was prepared partly on the basis of information received in reply to a questionnaire. All contracting parties applying restrictions under Article XIV had furnished the required statement except Brazil, Chile and Uruguay.

Mr. VALLADAO (Brazil) and Mr. GARCIA OLDINI (Chile) said that they expected their respective statements to arrive during the following week.

The CHAIRMAN then proposed the establishment of a Working Party 4 on balance-of-payment restrictions with the following membership:

Australia	Czechoslovakia	Japan
Belgium	Dominican Republic	Norway
Canada	France	Pakistan
Chile	Germany	Union of South Africa
Cuba	Indonesia	United Kingdom
		United States

and with Mr. Paul Koht (Norway) as Chairman.

The Working Party's terms of reference would be:

1. To conduct the consultations which have been initiated by contracting parties under Article XIV:1(g) and regarding which the International Monetary Fund is ready to consult with the CONTRACTING PARTIES pursuant to Article XV, and to report thereon to the CONTRACTING PARTIES.
2. To prepare the 1954 report on the discriminatory application of restrictions required by Article XIV:1(g).

3. To recommend procedures for the conduct of consultations and for the preparation of a report on discrimination, under Article XIV:1(g), in 1955.

The membership and terms of reference of the Working Party were agreed.

2. United Kingdom Waiver on Article I (L/255)

Mr. SANDERS (United Kingdom) referred to the First Annual Report (L/255) on the use of the waiver by the United Kingdom. The table circulated to each delegation gave full particulars of the use made of the waiver by the United Kingdom. He wished only to refer to the working of the procedures laid down in the CONTRACTING PARTIES Decision (BISD, 2nd Supplement, p.20). Some difficulty in the initiation of such novel and complex procedures would have been understandable but, in fact, the procedures had worked smoothly. This was a tribute both to the care with which they had been worked out and to the spirit of cooperation shown by other contracting parties. It had not proved necessary to seek arbitration by the CONTRACTING PARTIES in any case.

Mr. ANZILOTTI (Italy) recalled that when the waiver had been granted to the United Kingdom, the Italian Delegation had expressed anxiety as to the possible effects on Italian exports which might result from the measures which the United Kingdom Government proposed to adopt. For this reason, and others, Italy had opposed a general waiver, preferring that any waivers should be studied case by case. These considerations had determined the reservation referred to in paragraph 4 of the United Kingdom report. Italy continued to feel the same anxiety and hoped that the United Kingdom would have no further occasion to make use of the waiver.

Mr. SEIDENFADEN (Denmark) recalled that at the Eighth Session the Danish delegation had expressed some hesitation in this matter and its dislike of the waiver persisted. Danish circles continued to link this problem with the imperial preference issue. Denmark felt that preferences should be abolished and thought it was too often forgotten that the whole preference system had been introduced as an emergency measure in the thirties to deal with the same situation that other countries had met by other measures which they were now trying to eliminate.

The commodities for which tariff increases under the waiver had been introduced were not, in the main, commodities at present exported to any large extent from Denmark to the United Kingdom. As a whole, however, this was an example of increased protection in the agricultural field or at least the substitution of one type of protection for another. His Government regarded the effort for equal access to all markets as a main objective of the Agreement. Thus, the steps taken under the waiver were not in the right direction.

In conclusion the Danish delegation wished to ask whether the United Kingdom Government was in a position to say that they had now made full use of the waiver, so that it could be withdrawn. No time limit had been fixed in the CONTRACTING PARTIES decision and, if the United Kingdom Government felt it was still too early to have the waiver withdrawn, it would be interesting to know for how long it was expected to be required.

Mr. SANDERS (United Kingdom) in reply to the question as to the duration of the waiver, referred to the reasons his Government had given for seeking it. The waiver was needed not to deal only with certain immediate problems, but in order that the United Kingdom should be free in the future to exercise the same freedom as that enjoyed by other contracting parties in respect of unbound rates.

Mr. LARRE (France) expressed satisfaction with the way in which the United Kingdom had used the waiver and trusted that it would continue to be used with the same prudence and moderation.

Baron HENTINCK (Netherlands) said that at the last Session the Netherlands had been among the countries particularly interested in the waiver. The Netherlands had no reason to complain of the manner in which the United Kingdom, in the past months, had taken advantage of the new possibilities opened to it to increase margins of preference. He was aware that a number of customs duties had been increased, and very substantially increased, and that these increases affected import items of great importance to his country. Their attitude toward such increases was unchanged, and he shared the hope expressed by the representatives of Italy and Denmark that no further increases would take place. Nevertheless he did not think that anything had been done contrary to the terms of the waiver and expressed appreciation of the manner in which the United Kingdom had applied the procedures of the Decision.

Mr. SVEC (Czechoslovakia) observed that his Delegation had abstained in the vote on the Decision at the last Session, not because it specifically opposed this particular waiver, but because the experience of his Government with waivers led it to oppose all waivers except those specifically for development purposes. This attitude remained unchanged.

Mr. MACHADO (Brazil) thought that the question of the duration of the waiver, raised by the Danish delegate, was a serious one and relevant to the Review. A notion of acquired rights was developing. Would such waivers of obligations be fixed in the future? Furthermore, in the case of waivers, it was usual for countries to submit information as to their application and it would be useful if in all cases the secretariat should be instructed to circulate a commentary on the information provided, as had been done in the case of the European Coal and Steel Community.

Mr. DOMINIQUE (Haiti) said that his Government, which prided itself on being among those with the fewest restrictions, agreed with the Danish representative that waivers to Article I should be granted only for a limited period, and that reports submitted in connection with such waivers should indicate to what extent the objectives of the waiver had been fulfilled and of the time necessary for the achievement of those objectives.

Mr. SANDERS (United Kingdom) thanked the delegate of the Netherlands who had clearly distinguished between the preferential aspects, with which the waiver had been designed to deal and the question of increases in unbound rates. He did not wish to reopen the discussion on this question and so would not comment on the remarks of the Danish delegate. It was the view of the United Kingdom Government that the increases in duty were irrelevant.

The CHAIRMAN remarked that no complaints had been made regarding the operation of the procedures. Several governments had reserved the right, in particular cases, to re-open the matter if it should appear to them that a substantial diversion of trade had resulted.

The CONTRACTING PARTIES took note of the fact that the procedures under the waiver had been followed in all cases and that no formal consultations had been necessary.

3. Australia/Papua-New Guinea (L/251)

Mr. RATTIGAN (Australia) referred to the first annual report (L/251) on the use of the waiver by Australia. As could be seen from the report, no measures had in fact been taken.

The references in the report to the Tariff Board enquiry relating to timber and rubber were given solely as general information.

The CONTRACTING PARTIES took note of the fact that the Australian Government had not yet taken action in terms of the waiver, enabling Australia to grant special customs treatment to certain products of Papua-New Guinea.

4. South Africa/S. Rhodesia Customs Union (L/259/Rev.1) and L/222)

Mr. MEYER (South Africa) referred to the Joint Statement submitted by the Government of the Union of South Africa and the Federation of Rhodesia and Nyasaland (L/259/Rev.1). As had been announced by the delegate of Rhodesia and Nyasaland, at an earlier meeting, the Federation was now engaged in drawing up its new tariff. Until that was done, no decision could be reached as to whether the present Customs Union Agreement should be retained, amended or replaced. Hence it had not been possible for the two Governments to comply with the requirement of the Ancey Declaration that a definite plan and schedule for the completion of the Customs Union be submitted not later than 1 July 1954. He hoped the CONTRACTING PARTIES would agree to

postpone consideration of this question to the Tenth Session. Mr. Meyer wished to apologise for the delay in submitting the statement, a delay caused by the wish of the two Governments to give the CONTRACTING PARTIES the latest possible information.

Mr. BERTRAM (Rhodesia and Nyasaland) associated himself with the statements of the South African delegate and only wished to add that both Governments recognized the undesirability of a continuation of the present situation. Discussions on this matter were being actively pursued.

It was agreed to defer consideration of the action required of the two Governments under the Annex Declaration to the Tenth Session. Since this required an amendment of the terms of the Declaration, a decision would be prepared for approval by the CONTRACTING PARTIES.

Mr. BERTRAM (Rhodesia and Nyasaland) referred to the Fifth Annual Report of the Southern African Customs Union Council (L/222). At the Eighth Session, the CONTRACTING PARTIES had taken note of the Fourth Annual Report, and agreed to await developments arising out of constitutional changes in the Federation. South Africa and Southern Rhodesia had continued their consultations in the meantime, but the need to formulate a new tariff for the Federation had prevented further progress. The negotiations now related to a wider area. The Customs Union Council was carrying on its work and would continue to do so.

The CONTRACTING PARTIES took note of the Fifth Report.

5. Article XVIII - Applications: Application by Cuba (L/221)

The CHAIRMAN recalled that in 1949 the CONTRACTING PARTIES had granted a release to the Government of Cuba under paragraph 8(b)(i) of Article XVIII, enabling Cuba to maintain a system of import quotas on the fibres of henequen and sisal. This release had expired on 10 August, and by airgram (GATT/AIR/52) the contracting parties were informed that Cuba intended to request an extension of the release at the Ninth Session. It was suggested that Cuba might be authorized to maintain the measure until the CONTRACTING PARTIES took a decision on the application. No objection to this procedure was received. The Cuban application requested an extension of the release for a further period of five years, until 10 August 1959.

Mr. PEREZ CISNEROS (Cuba) referred to the decision by which the CONTRACTING PARTIES granted in 1949 a release to his Government under Article XVIII, and stated that, on the eve of the expiration of the release, the Cuban Government had found it necessary to make the present request.

Production of henequin, which was increasing until 1948, had declined since then on account of the sharp fall in world prices and the competition of other fibres of a finer quality. The need for economic development was

now even more pressing owing to the contraction in the sugar industry. This, combined with the strategic factor, made it particularly important to maintain the henequen and sisal production. Suspending the quota régime now in force would mean its end, and result in economic and social difficulties. His Government saw no alternative and had, as a consequence, found it necessary again to ask for authorization to continue the quantitative regulations now in force for at least another five years. He suggested that the matter be referred to the Working Party or Article XVIII applications.

Mr. MEYER (South Africa) referred to the report of the Third Session Working Party on the subject (BISD, Vol. II, p.51) which described the reasons and conditions under which the release had been granted. It was nowhere recorded, however, that Cuba had been requested to report on the steps that were being taken to eliminate the quantitative restrictions in question. Mr. Meyer agreed with the remarks which the Brazilian delegate had made on another occasion, that any contracting party to whom a waiver was granted should report regularly on the use of that waiver. The Government of the Union of South Africa was opposed to all quantitative restrictions applied for any other reasons than to safeguard the balance of payments, and in particular it did not consider that such restrictions were a sound method of assisting young industries. If the Cuban request, or any similar requests, were granted, the Government concerned should be asked to undertake so to organize its economy as to lead to a position in which it could ultimately eliminate the restrictions, and furthermore it should be requested to report each year to the CONTRACTING PARTIES on the progress made in that direction.

It was agreed to refer the application of the Government of Cuba to the Working Party on Article XVIII Applications. The Working Party would take into account the remarks of the representative of the Union of South Africa.

6. Samples Convention (L/253, L/248 p.6)

The CHAIRMAN referred to the list of signatures, ratifications, acceptances and accessions (L/253). None of the six countries who had signed the Convention had to date deposited an instrument of ratification or acceptance. Instruments of accession had been deposited by five governments. The Convention could not come into force until fifteen governments had deposited instruments of ratification, acceptance or accession. The Government of Turkey had recently indicated that it was about to accede to the Convention and several delegates had said at the Eighth Session that their Governments were taking steps to do likewise.

Mr. PHILIP (France), Mr. HAYTA (Turkey), Baron BENTINCK (Netherlands), Mr. WEISS (United States), Mr. HAGEMANN (Germany), Mr. ANZILOTTI (Italy), Mr. SOE (Burma), Mr. GOERTZ (Austria) and Mr. DOMINIQUE (Haiti) announced that bills providing for accession or ratification of the Convention would shortly be submitted to their respective legislatures.

Mr. KOHT (Norway) and Mr. SAHLIN (Sweden) said that such bills had already been passed by their parliaments and the instruments of accession and ratification, respectively, would shortly be deposited.

Mr. PLUMPTRE (Canada) explained that the Canadian Customs Law contained provisions to admit commercial samples and advertising material, and technical experts did not feel that such imports would be any further facilitated if Canadian legislation were amended to bring it into line with the Convention. The Canadian Government, thus, did not envisage ratification of the Convention although it was willing to examine the matter further.

The CHAIRMAN noted that there seemed a prospect of obtaining the fifteen ratifications or instruments of accession required to bring the Convention into force. He would also have liked to know what consideration was being given to the question in Latin American countries.

The CONTRACTING PARTIES took note that, although the text of the Convention to facilitate the importation of samples and advertising material was agreed upon two years ago, few governments had accepted or acceded to it, and that Governments whose regulations were consistent with its provisions had an interest in obtaining the benefits for their export trade which would follow from its entry into force. It was agreed to urge that contracting parties take action as quickly as possible so that the Convention could enter into force without further delay.

7. Greek Request to renegotiate four items in Schedule XKV

The CHAIRMAN explained that the four items to which the Greek Government's request referred, related to processed hides and skins and had been negotiated with the United States and Germany at Annecy and Torquay.

Mr. HADJI VASSILIOU (Greece) said that the duties on these items had been reduced and bound under the Agreement in negotiations with the United States at Annecy and with Germany at Torquay. This stabilization had been necessary because, in Greece's difficult postwar period, its productive capacity had been severely limited and the requirements of its population had been urgent. The circumstances had changed since that time. Until 1952 both the internal production of processed hides and skins and imports had increased concurrently. Since 1952, however, imports had continued to increase while production had begun to decline. His government found itself facing a situation where workers were being dismissed and factories were on the verge of being closed. From 1950 to 1952 imports had doubled in quantity and value and, from 1953 onward, this process was being accelerated, owing no doubt to the almost complete liberalisation of imports. At the meeting of the Intersessional Committee in July, it had been argued that liberalisation did not justify an increase in duties, an argument with which he was prepared to agree, provided that liberalisation was carried out on a general and reciprocal basis. Until that time, his government considered that it had the right to envisage other means of protection.

Mr. Hadji Vassiliou referred to the Report adopted at the Eighth Session on the continued application of schedules annexed to the Agreement, (B.I.S.D., second supplement, page 61), in which it was stated that a contracting party wishing to renegotiate an item in order to afford protection for developmental purposes could have recourse to Article XVIII and, in appropriate circumstances, to other provisions of the General Agreement. His government had decided to take action in this matter under both Articles XVIII and XIX. In fact, Article XIX seemed adequate to cover the situation which was an emergency one, and Mr. Hadji Vassiliou referred in particular to paragraphs 1, 2 and 3 (a) of that Article. Action under Article XVIII was also justified, since this was a matter of economic development and reconstruction arising out of the need to protect this branch of industrial activity, thus making more efficient use of labour and raising the standard of living. The proposed measure was non-discriminatory.

Mr. Hadji Vassiliou foresaw that objections could be raised to the use of Article XIX on the grounds that the case was not an urgent one. His government, however, considered the situation very threatening, particularly in view of the fact that many of the factories which had been created with United States aid were now endangered, and it could not accept the loss of investment that this aid, which was now about to end, had made possible.

Since Greece was a country insufficiently developed and, owing to the prolongation of a situation of war there, still in the process of reconstruction, his government favoured the continued application of the schedules annexed to the Agreement. This question was also linked with the forthcoming Review, the result of which his government hoped would be to give greater flexibility to the Agreement. When the question of extending the Schedules to the Agreement and Article XXVIII negotiations took place, his government would submit a general list of items on which it wishes to renegotiate. Whatever action was taken now by the CONTRACTING PARTIES on the four items to which the present request referred would serve as a useful guide to his government on the probable future attitude to such requests, and would undoubtedly to some extent shape their policy regarding the Review.

The CHAIRMAN said that the question to be considered was, under which Articles the Greek request should be considered, whether, as suggested in the Greek request (Secret/15), under Article XVIII or XIX or under the sympathetic consideration procedures adopted at the last session.

Mr. WEISS (United States) said that, since Article XIX provided for action without negotiation and since the Greek government explicitly requested authority to renegotiate, he assumed that it was in fact requesting that the CONTRACTING PARTIES consider this question on the basis of either Article XVIII or the sympathetic consideration procedure. On the basis of the information so far before the CONTRACTING PARTIES he was unable to make a judgment as to which procedure would be the most relevant.

Dr. EICHHORN (Germany) said that he had received no formal instructions as to the position of his government, but generally he agreed with the view expressed by the United States delegate. He did not believe that the conditions for invoking Article XIX were fulfilled in this case but thought that his government might agree to consideration of the request on the basis of the sympathetic consideration procedures.

The CHAIRMAN proposed that the matter be examined in the first instance under the sympathetic consideration procedures adopted at the last session. If this were approved the Greek government would consult with the countries with which the concessions had been negotiated and with other contracting parties having a substantial interest as exporters.

Mr. HADJI VASSILIOU (Greece) accepted this proposal, but, in view of the fact that such procedures were likely to be slow, he reserved the right of his government to invoke, if necessary, the emergency action procedures in Article XIX.

The CONTRACTING PARTIES agreed to grant authority to the Government of Greece to renegotiate the four items on the same conditions and by the same procedures laid down by the Intersessional Committee in July.

The CHAIRMAN then proposed that all contracting parties with a substantial interest in the items referred to in the request should notify the Greek delegate and the secretariat. In reply to a further remark of the Greek delegate on the urgency of the case, he emphasized that the procedures had been used with no difficulty in the past and he was sure that these negotiations would be carried out in the same spirit of amicability and understanding.

Mr. WEISS (United States) said that he wished to reserve the position of his government in the event that the Greek Government decided to exercise its rights under Article XIX.

Dr. EICHHORN (Germany) also reserved his position regarding the application of Article XIX.

Mr. HADJI VASSILIOU (Greece) felt inclined to observe that he was not entitled to expect a different attitude on the part of the delegates of the United States and the Federal Republic of Germany; nevertheless he was bound to note that the United States Government had not chosen to act in the same way when they were about to increase duties on figs which were so important an item among Greek exports to the United States.

The CHAIRMAN said the reservations by Greece, the United States and Germany would be recorded.

The meeting adjourned at 6 p.m.

