

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## SUMMARY RECORD OF THE EIGHTEENTH MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 17 November 1954, at 10.30 a.m.

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

Subjects discussed: Review of the Agreement

- (a) Third Topic: Other Barriers to Trade
- (b) Fourth Topic: Organizational and Functional Questions

### (a) Other Barriers to Trade

Mr. DIAS CARNEIRO (Brazil) referred firstly to the practice of tied loans which his delegation considered to be a barrier to trade, by preventing funds from being spent in the cheapest markets. Their abolition would ease balance-of-payments adjustments. Major international monetary transfers should be untied, so that dollars, disbursed by international credit agencies for economic development could be used to buy the cheapest products. Tied loans were inconsistent with the objectives of the General Agreement and the new Agreement should provide that international long-term loans be made without obligation as to where they should be spent. Secondly, internal discriminatory taxes occasionally operated so as to discriminate against the national rather than the imported product. The new Organization should investigate such cases in the light of the exchange rate of the countries imposing these discriminatory duties and, where over-valuation led to this result, the new Agreement should contain a recommendation to the effect that the basis for taxation should be the c.i.f. price accrued by the selling profits of the importer and internal transportation costs in the importing country, so as to place the incidence of taxation on the foreign product at the same competitive level as the domestic product. Thirdly, the new Agreement should contemplate the establishment of economic or customs unions among underdeveloped countries without tariff readjustments, as a method of leading to an expansion of trade. Such regional arrangements, while of less value than a fully multilateral system, could nevertheless contribute to a partial solution of the problems. Fourthly, provisions should be made for consultative participation with the regional commissions of the United Nations, such as the Economic Commission for Latin America and the Economic Commission for Asia and the Far East. They might usefully be consulted as to the possibility of establishing regional preferences in line with existing exceptions to the most-favoured-nation principle.

With regard to mixtures, the Brazilian delegation proposed that Article III be amended so as to lay down conditions under which a country might apply requirements in this field to cope with balance-of-payments difficulties.

Article VIII should be modified to take care of over-invoicing frauds on the f.o.b. valuation of countries possessing an exchange control mechanism.

The current practice of re-exporting raw materials and foodstuffs should be restricted by means of identification of nationality of imported products.

With regard to shipping, Mr. Dias Carneiro referred to the subsidies granted by some countries for shipping. There was, also, no connection at present between GATT and international organizations dealing with freight, nor had the implications of the present monopolistic practices for international trade been studied. A provision in the new agreement concerning the removal of such barriers would be beneficial.

Finally, Article IV, relating to screen quotas, did not permit discrimination by origin for balance-of-payments reasons. Brazil would prefer to see the Article deleted, but if it were maintained an opportunity should be afforded for the participation of the underdeveloped countries in the world market.

(b) Organizational and Functional Questions

Mr. KOHT (Norway) referred to the proposals of his delegation, made as a result of their wish to strengthen the furtherance of the purposes of the Agreement, that the objectives, now contained in the Preamble, should be inserted as Article I of the Agreement itself. A firm organizational structure would be required, administered by a more closely knit organization than the present one. The provisions should be detailed, but sufficiently flexible to meet new conditions. Whether the organizational provisions should be included in the Agreement itself or in a separate protocol seemed to him a question of form rather than of substance, so long as it was made clear that the organization to be established was charged with furthering the objectives of the Agreement and not only the administrative rules. The new Organization should not merely give effect to these rules, but should also be able to study problems of international trade, and take up matters not within the scope of the Agreement itself.

Mr. BROWN (United States of America) said that one of the principal aims of the Review was to work out more formal and effective organizational provisions to carry out the administrative functions which had hitherto been left largely to the CONTRACTING PARTIES themselves. It should now be formally recognized in the Agreement that a permanent, continuous, subsidiary body was required. Provision should also be specifically made for an adequate secretariat. The CONTRACTING PARTIES in the past had, in addition to their main duty of administering the Agreement, also studied more general problems. It would be appropriate for the new organization to have similar functions: it should be empowered to study and sponsor formal negotiations relating to other commercial policy matters, similar to its past activities, such as the proposed convention on samples and advertising material.

The basic organizational rules and general functions should be contained in an instrument separate from the General Agreement; the latter would still contain the substantive rules to be applied by the contracting parties and administered by the Organization. Such an arrangement (viz. the secretariat Note, L/189) would enable individual contracting parties to treat the two instruments separately in the light of their various constitutional procedures. His delegation might wish to suggest, for consideration by the Working Party, methods to improve the administration of the present rules in the period before the new Agreement became effective. Mr. Brown thought the questions relating to the technical and legal aspects should be considered in the first instance by the working party.

Mr. MONSERRAT (Cuba) wished to record the support of his Government for a more permanent Organization, with enough resources and subsidiary bodies to ensure the effective administration of a strengthened Agreement. Clearer relations should be established between the organization and the Fund. These matters were, of course, dependent upon the substantive provisions which had still to be discussed.

Mr. JHA (India) shared the view of the Norwegian delegate that the question of one instrument or two was a formal one. The important task was to give the Organization sufficient strength and jurisdiction to enable it to deal with matters hitherto unattended to. The secretariat should be provided with adequate facilities to undertake whatever functions were contemplated under the new Agreement, and the new Organization should emerge as a body following flexible procedures. It was impossible to solve all the problems by means of amendments or rules, and the Organization must be able to interpret the provisions of the Agreement in the light of discussions of the basic principles. It would thus give rise to a body of case law. Arbitration of difficult cases should be specifically provided for.

Mr. MACHADO (Brazil) supported the establishment of a permanent Organization, instituted as a new specialized agency, empowered to consider on a continuing basis all questions relating to international trade. He agreed in principle with the United States proposal to separate the substantive and organizational aspects. The new Organization should be integrated and co-ordinated with the United Nations under the responsibility of the Economic and Social Council. The administration during the transitional period should not preclude the new Organization from any activities it might eventually wish to undertake. Mr. Machado thought that the new Organization should have responsibilities in the wider field of commodity trade, and that a clear definition of all the responsibilities of the Organization should be arrived at.

Mr. COUILLARD (Canada) said that there appeared general agreement on the necessity of the GATT as an international instrument to govern trade relations, and it followed from this that the Organization administering it must be such as to make the administration possible in an efficient manner and on a continuing basis.

The Canadian delegation supported the establishment of a formal Organization similar to other related world organizations. His delegation did not feel strongly as to whether the organizational provisions should be embodied in a separate agreement, but would wish them spelled out so as to cover structure and functions, membership, entry into force, accession, amendments, complaints procedure, relations with other organizations and perhaps with non-members, legal status, budget and contributions. The structure should provide for a plenary body on which all members would be represented, and a subsidiary body

(perhaps called the Executive Committee) to administer the Agreement between sessions. The need of such a body had hitherto been met by the Intersessional Committee, which had performed a useful and necessary function in the administration of the GATT. It should be made clear that the Conference would remain the supreme body of the Organization, while delegating adequate functions and powers to the Executive Committee to enable it to ensure the efficient and full administration of the Agreement between sessions. The Canadian delegation supported the linking of the new Organization to the United Nations by an Agreement. Mr. Couillard said that the full and effective administration of the new Agreement would entail a strengthening of the secretariat.

The Canadian delegation assumed that such amendments to the Agreement as emerged from the present Review would be dealt with in accordance with the existing amendment provisions, namely, Article XXX, since the Agreement was in existence and had been governing trade relations for seven years. His delegation hoped to see the Agreement applied on a definitive basis. Canada had modified a great part of its legislation to bring it into line with the Agreement, including the provisions in Part II thereof. Nevertheless, in view of the recognized difficulties of a number of countries in applying certain provisions of Part II at this stage, his delegation would be prepared to consider continuing the status quo, improved where possible in the sense that a large block of the provisions contained in Part II should be applied on a definitive basis. He would strongly urge that members continue to make progress toward bringing their pre-1947 legislation into line with the provisions of Part II of the Agreement. The Organization should provide for a continuing survey and review of this question.

The Canadian delegation felt that great care should be exercised lest the Agreement be overloaded. It was essentially a multilateral tariff agreement, containing provisions to safeguard the value of the Tariff Schedules, and it would be dangerous if, by extending the scope, the efficiency of the new Organization were reduced. Nevertheless, the Canadian delegation was prepared to consider sympathetically the proposal whereby an enabling clause might be written into the GATT, which would permit those contracting parties who wished to do so to establish supplementary agreements under the aegis of the GATT, to the administration of which the secretariat might contribute. Any such expansion of activities must be in the form of supplementary agreements outside the provisions of the General Agreement, and with no obligation to accede on the part of any contracting party.

Mr. ANZILOTTI (Italy) recalled that the Italian Minister of Foreign Trade had already indicated the support of his Government for the establishment of an Organization. He wished to call attention in particular to the question of representation of the contracting parties in the future Organization. This question had already been partially studied at the time of the creation of the Intersessional Committee. His delegation would co-operate with the working party in the search for solutions to the questions of administration, and the technical and legal questions. It would be easier to wait until the question of the administration of the Agreement had been studied before deciding on the legislative procedures that might be necessary for each country to put into force the results of the deliberations here. In Italy, for example, where the General Agreement had been approved by law, renewed approval by Parliament would be required to put into effect a new text of the Agreement, as well as any decisions concerning an Organization.

Mr. LARRE (France) said that there seemed no opposition to strengthening the authority and means of the GATT, and replacing the provisional character of certain parts thereof. The authority of an international convention should be given to various matters that were now uncertain. He shared the views already expressed by several delegations that it was necessary to provide more organs, and in particular intermediary and continuing organs, between the plenary assembly and the working parties. The French delegation was in favour of maintaining a small secretariat. The action taken at this Review Session would permit the new institution to live. The French delegation hoped that the new Organization would also permit its members to live, that it would serve as an inspiration, a place of consultation and a means of co-ordination. It should be remembered that there was a limit to the action that could be imposed upon governments by international law. The present Agreement went too far in regulations; it was too complicated and had become an affair of specialists. The result was that governments and parliaments ignored it and the specialists had constant difficulty in maintaining government action within the limits of the regulations. This important fact should be kept in mind during the Review. The GATT should also allow the regional organizations to live. Barriers should not be put in the way of the development of their activities. Finally, the various world organizations should permit the GATT to live. It was essential to avoid the excess of bureaucracy that might arise out of insufficiently flexible relations with the various political organizations, which necessarily lacked the flexibility and possibilities of action that the Agreement had hitherto shown. Any abandonment of responsibility should be avoided; all contracting parties should be aware and conscious of the powers which were being confided to the Organization.

Mr. HADJI VASSILIOU (Greece) said that his Government was favourable in principle to the establishment of a permanent Organization, although to pronounce definitely on this question it would wish first to know in general what type of Agreement the new Organization would be called upon to administer. Many views, coming from quite different parts of the world, had been expressed, underlining the need for the new Organization to be flexible and sufficiently general so as not to perpetuate, in the text itself, the existence of exceptional cases. The principle of equality of states should of course rule, but, as well as this, an increase in the influence of countries in the course of development should be contemplated in the new Organization, in a manner to correspond to the influence of the industrialized countries. The Greek Government considered it important that the new Organization, numerically enlarged, should form an essential part of the network of international organizations. Thus, it should be co-ordinated on the one hand with world organizations like the United Nations and the Fund, and on the other with regional organizations like the Organization for European Economic Co-operation and the Economic Commission for Europe. If these considerations were borne in mind during the Review, the Greek Government would look with satisfaction on the new Agreement becoming the principal if not the only organ of world commercial policy. The Greek Government particularly wished to see established in the new Organization a guarantee of equality in economic relations, which would correspond to the real relationship between the different economies and to the concept of independence which the present notion of sovereignty reserved to national activity. Thus, Greece wished the plenary assembly to be the sovereign organ of the new Organization. It would also be desirable that the powers of the secretariat be recast and surveyed by an executive committee elected by the plenary assembly.

Among the tasks of this committee would be to assure the application of the Agreement itself and the resolutions adopted by the annual plenary meeting. Membership of this committee should be rotating. In short, the constitution of the new Organization should be such as to ensure that the democratic character of the Agreement be emphasized.

Mr. SUETENS (Belgium) remarked that the need for a reform of the Organization was admitted by all. It was high time, as well as a legal necessity, that the Organization take a recognized form. Furthermore, his delegation thought the Agreement would gain by being made more intelligible. The relations between the GATT and other organizations dealing with commercial policy should be clarified. Certain powers might be strengthened, while still retaining the respect for national sovereignty which accounted for so much of the present influence of the Agreement.

Mr. DOMINIQUE (Haiti) considered that the Review should occupy itself with remedying the defects of administration of the Agreement, without touching the essential provisions. A permanent Organization was necessary to assure proper functioning and to act as an arbiter in cases of conflict or controversy. The existing sanctions, which consisted only of withdrawals of concessions, were frequently useless when undertaken vis-à-vis a strong country. Contracting parties should formally engage to observe arbitral decisions. The new Organization should include a wide representation of both developed and underdeveloped countries, all equally bound to observe the rules. He supported the Brazilian proposal to study monopolistic practices in the field of transport.

Mr. MAKATITA (Indonesia) supported the Norwegian proposal to include the objectives of the Agreement as an article of the Agreement. In administering the trading rules, members should be continually mindful of conducting their relations in accordance with all these objectives. His delegation had no strong views as to whether the provisions relating to organization should be contained in a separate instrument. They did consider, however, that no decisive powers should be delegated from the conference to a subsidiary body. Whatever executive body was established should be executive only; no powers of arbitration should be conferred upon it. The Canadian delegate had referred to the new Agreement coming into force under the amendment procedure of Article XXX. The Indonesian delegation did not object to the retention of an article providing for amendments in the new Agreement. The new Agreement itself, however, should be subject to full ratification procedures by parliaments. Such a procedure was necessary for his own Government.

With regard to the question of integration with the United Nations, he thought there should be no implicit infringement of the present terms of reference of the Economic and Social Council, which had broad fields of action and investigation.

Dr. SVEC (Czechoslovakia) said that while the administration of the Agreement hitherto had been perhaps not completely satisfactory, it nevertheless had certain advantages which it would be a pity to lose. The main one of these was the equality of all contracting parties in the administration and in the decisions. Dr. Svec referred in this respect to the provisions regarding unanimity and decisions by two-thirds vote, and the provisions enabling special sympathetic treatment where certain countries were unable to follow the majority in all aspects. These advantages should be maintained, and the same attitude be followed regarding amendment procedures. Like the representative of Indonesia, he opposed the delegation of any decisive powers to a subsidiary body.

In establishing the Organization, account should be taken of decisions taken in the past in this field, especially of the Economic and Social Council decision of 18 February 1946, which laid down the lines for the establishment of an international trade organization. The question of the present relations with the non-existent ICITO should also be dealt with.

The new organization should seek co-ordination of its policy and activities with the United Nations, particularly with the Economic and Social Council in accordance with the principles of the United Nations Charter, and also with its subsidiary bodies. In delineating the relations with the International Monetary Fund, a clear distinction should be drawn between the monetary and commercial aspects of the problems as well as the responsibilities in the respective fields.

Mr. LOUW (South Africa) supported in principle the establishment of a more autonomous organization. He opposed closer relations with the United Nations, an almost entirely political body, with which a business organization like the General Agreement would not happily mix. Furthermore, the fact that many members of the United Nations were not contracting parties would have undesirable effects. With regard to the scope of activities, he thought the CONTRACTING PARTIES should confine themselves to dealing adequately with the responsibilities they presently had. He hoped that the expenses of the organization would be kept low, and supported the view of the French delegate that it would be undesirable to create a top-heavy bureaucracy.

Before committing themselves, his delegation wished some assurance as to the way the Review would go. Several delegates had expressed appreciation of the Agreement as a stabilizing instrument and helpful in promoting international trade. Many of the speakers were also, quite naturally, concerned with their own particular interests. Would the working parties that were about to be set up to deal with the Review really make an effort to close the various loopholes and escape clauses now in the Agreement, or was "flexibility" to be the driving motive? Would the working parties be prepared clearly to define and circumscribe the special circumstances in which departures from the GATT rules would be permitted? Would the working parties really try to define what constituted an underdeveloped country? Would the working parties really ban unfair trade practices, or would they content themselves with frowning upon them? Export subsidies, for example - were they to be allowed to be continued, simply because the strongest country wished it so? His Government was concerned about the frank

admission that these subsidies were being used to secure what was considered a fair share of the market. South Africa was also concerned at the continuation of price support schemes which could only result in a continued accumulation of surpluses. Were the objectives of the Agreement to continue to be circumscribed by the existence of bilateral agreements?

South Africa had made a genuine effort to carry out to the best of its ability the obligations of the Agreement. If the evasions by other contracting parties were to continue as heretofore, his Government might find it difficult to satisfy its people concerning continued membership. They could not allow their own interest to be prejudiced thereby.

Mr. COHEN (United Kingdom) thought the working parties must keep seriously in mind the challenge just given by the South African delegate. They must try to demonstrate in their activity and in their reports that the Agreement was a treaty that could contribute to a realistic trading system.

As he understood it, the objective of the Review was to strengthen the Agreement and reinforce the powers of the organization; the chief need was for more effective machinery to deal with questions as they arose. If the Agreement were to continue to require that major questions be submitted to the scrutiny and arbitration of the CONTRACTING PARTIES, it was essential that there should be machinery to deal promptly and adequately with such questions, so that countries would not be prevented by delay in the machinery from taking urgent action.

It did not appear to Mr. Cohen that any clear definition of an underdeveloped country was possible. The very term "underdeveloped" presumably conveyed the intention of such countries to become "developed" countries; thus it would be dangerous and undesirable to divide the members of the Agreement into two species, and would render unrealistic the co-operation between them that the Agreement was intended to provide. The Agreement should develop as an organization for complete co-operation between the more and less developed countries, and it would have no future if it were based on the idea of two distinct and mutually antagonistic classes.

Another division had been intimated by certain delegates between the Agreement, as a world organization, and the various regional organizations. It was suggested that the latter should undertake really effective measures, while the Agreement should serve rather as a forum for an exchange of information. Regional organizations, however, were merely a convenient means whereby countries in the same region might work together. They must conform in their structure and operations with the overriding rules laid down in the General Agreement. There had been no difficulty hitherto in practice. Regional organizations had been able to progress without conflicting with the Agreement, and Mr. Cohen thought it would be a pity to change the existing concepts of relations with such organizations in a manner that might change the relations themselves. A good example of the proper relationship between the Agreement and regional organizations had been the action taken by the CONTRACTING PARTIES in granting a waiver to the six members of the European Coal and Steel Community.

Regarding the suggestion that the new organization should become a specialized agency of the United Nations, this would be appropriate provided satisfactory terms could be agreed to. In no event would it be proper for the organization to become an agent of the United Nations, and the administration and responsibility of the Agreement must continue to be vested solely and wholly with the CONTRACTING PARTIES.

Mr. LARRE (France) wished to clarify some points made by Mr. Philip at an earlier meeting. The French delegation certainly did not wish to have two Agreements, even if disguised as one, with rules differently applicable to the underdeveloped and industrialized countries; nor did it desire one Agreement drawn up to conform to the needs of, and acceptable to only the industrialized countries. It was possible to conceive of an Agreement that would be acceptable or tolerable to certain countries but which could not be applied to the remaining three-quarters of the world, whose consent could be bought only by safeguards, exceptions and temporary waivers. The French delegation asked that an Agreement be drawn up which would respond to the common needs of all its members. It was for this reason that they had connected this problem with that of regional organizations. If an Agreement were drawn up satisfactory to all of its members, it could not be entirely satisfactory to those who had reached a higher stage of development and were capable of applying more liberal rules. The efforts in this direction of the countries who so wished should not be hindered; but these efforts should be made among their peers.

Mr. GARCIA OLDINI (Chile) said that the strange and paradoxical organization of the Agreement had none the less responded to real and objective needs of economic life. There still remained a large field which it could not fill, and hence the wish to establish a recognized organization. It was difficult to decide upon the new structure until the field of action of the new Agreement had been settled. The proposals of the secretariat seemed to him useful.

The chief problem lay in the realm where the Agreement had not hitherto been able to act effectively. The United Kingdom delegate seemed to be asking that the Agreement become an act of faith in the inevitable growth of underdeveloped countries. Neither experience, logic or a sense of reality justified such an act of faith. The problem should be reviewed in economic and social terms. The concept of flexibility would go far to meeting the needs of the underdeveloped countries, which were forced to act according to a multiple and changing economic reality and could not afford, as could more industrialized countries, to act in accordance with any economic dogma.

One of the problems of the Review was to give the organization a form and text which would be accessible to the non-specialist. Understanding and sympathy from the peoples of the various countries could not be expected if a treaty more metaphysical than relating in any way to their interests and problems were drawn up. An attempt must be made to understand and meet the views of non-contracting parties, at least those which were attending the present Session as observers. The organization could only carry out its tasks and objectives if it widened its membership; and if, as was probable, some countries continued to remain outside, means should be found of establishing ties with non-members, of maintaining relations with them, and even of having them participate, if only indirectly, in the work.

Ties should also be developed with regional organizations. Latin-American countries attached great importance to the Economic Commission for Latin America, which was developing as an effective body with a wide influence. There was no question of impinging upon the field or responsibilities of regional organizations, but if the CONTRACTING PARTIES were to co-ordinate their activities with such organizations where both had a common field of operation, the opinions of the whole region that normally were not heard in the CONTRACTING PARTIES, or if heard, often misunderstood, would be of the greatest value. It was necessary also to clarify relations with the Fund. The collaboration of the Fund had been of great value and should continue, and in respect of quantitative restrictions its primary rôle should be maintained. It was essential to institute collaboration with the United Nations Advisory Commission on Commodity Trade. The establishment of this Commission had come about as a result of lack of action by the CONTRACTING PARTIES.

Once the Review was completed and the new organization had been created, there would be again the problem of provisional application. Precautions should be taken that the transitional period were not one of incertitude and some provision should be made for the fact that the new Agreement could not enter into effect at the same time for all.

Whatever executive committee were established for the new organization would necessarily be of a different character from executive committees in other organizations, in the same measure that the task of the Agreement was of a different nature. Some delegation of authority was inevitable, and in this connection the experience of the Intersessional Committee should prove useful. The increased tasks of the new organization would require a larger secretariat and he hoped that, while giving first place to the question of capacity, account would also be taken in their selection, of different nationalities and different types of economy.

The Meeting adjourned at 1.00 p.m.