

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Ninth Session

SUMMARY RECORD OF THE NINETEENTH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 November 1954, at 3.00 p.m.

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

- Subjects discussed:
1. Review of the Agreement: Organizational and Functional Questions
 2. The Establishment of Working Parties
 3. Second Interim Report on Working Party I on Article XVIII Applications (L/281)
 4. Italy/Libya - Draft Decision (W.9/13)
 5. South Africa/Southern Rhodesia Customs Union - Draft Decision (W.9/6)

1. Review of the Agreement: Organizational and Functional Questions

Mr. MACHADO (Brazil) wished to clarify his proposals concerning co-ordination, in particular co-ordination with the United Nations. The status of specialized agency would ensure the co-ordination of work under the Agreement with that done in other fields, and this was essential. Representatives here were representatives of the same Governments that had established the United Nations and other international bodies, and the existence of an attitude that did not favour closer relations with such other bodies constituted proof that co-ordination was lacking and sadly required. The United Nations Charter in no way implied that co-ordination between the specialized agencies and the United Nations entailed any subordination of the former to the latter. At the United Nations, for example, attempts had been made to formulate a definition of an underdeveloped country. The latter wished to have their status recognized, and the Organization, to be effective, must take account of realities. The Review could not be allowed to perpetuate a situation which, even in 1947, had only been accepted on the basis that it was a temporary arrangement pending the entry into force of the Havana Charter.

Mr. DOMINIQUE (Haiti) shared the opinion of other delegates that the creation of a permanent Organization should not involve any increase in the contribution of the contracting parties. Co-ordination with the United Nations was essential. He wished to emphasize that the United Nations had shown, both in its investigations and recommendations, strict adherence to the letter and the spirit of the Charter.

Mr. AMERASINGHE (Ceylon) said that the intention of the underdeveloped countries was to change, both by their own efforts and with the assistance of others, the situation that had resulted from their earlier history, so that they might take their place as economic as well as political equals. He agreed that there was no question of establishing a separate Agreement for the underdeveloped countries, but they only asked that their special problems be considered, and adequate provisions be inserted so that their development could progress, and thus contribute to the well-being of their own people and the world.

Mr. CRAWFORD (Australia) thought that in addition to the bureaucratic risks of a large Organization, there was the danger of establishing a super-state. The contracting parties must remain in charge of their own Organization.

With regard to the question of including some provision in the Agreement to deal with commodity questions, the Australian Government thought that an enabling provision should be inserted to make it possible for this and other questions to be studied by the Organization. It should be made possible to draft supplementary agreements, and in such a manner that non-members as well as members could accede to them. In examining the principles of commodity arrangements, Chapter VI of the Havana Charter should be used as a basis only. His delegation had already expressed views critical of certain aspects of these provisions. There was some proliferation in the field of commodity bodies; in the field of the disposal of commodity surpluses the progress of the FAO should be recognized. His Government had believed the establishment of the United Nations Advisory Commission on International Commodity Trade had been unwise, but if it were to continue, his Government would contribute insofar as possible to its work. Australia continued to think that the GATT was the logical forum for drawing up and supervising commodity agreements. Finally, if it should be decided not to grant any authority in this field to the new Organization, his delegation would press for the deletion of Article XXIX which, by binding contracting parties to observing the principles of the Havana Charter in this respect, had already hampered his own Government in the negotiation of certain commodity agreements.

Mr. HADJI VASSILIOU (Greece) thought that the existence of the present near-anarchy in international organizations made quite clear the primary importance of co-ordination. The secretariats of these proliferating bodies, as well as governments themselves, contributed to this anarchy. It would seem reasonable to provide for liaison of the permanent organizations with the Economic and Social Council. The latter, by virtue of its constitution, was the co-ordinating body of all specialized agencies. Those organizations that did not fall into this field, were frequently at a disadvantage and it was important that the new GATT Organization should not be isolated among a multiplicity of international bodies. The Working Party should study the question of co-ordination, along with the whole matter of the organization.

Mr. HAGEMANN (Germany) agreed that the Organization should be strengthened, and that an effort should be made to make it possible to include all countries. His delegation considered that the field of activity should be widened, and he referred to the proposals submitted in this respect - concerning restrictive business practices, maritime insurance, freedom of establishment, double taxation and others - by the German delegation.

Mr. JHA (India) thought that the approach to the Review should be one of growth and adaptability to change. The Agreement itself was already in existence, and there should be no thought of drawing up solutions for all time. He agreed with the French delegation that it would be a mistake to make the Agreement exclusive by its very nature. There would be advantage to all

contracting parties if more countries joined. On the other hand, it would equally be a mistake to try to make a totally new beginning and establish a universal organization quite different in character.

Mr. Jha hoped the new Organization would be competent to deal with all problems that were connected with its main theme. It did not, however, follow from this view that a code should be drawn up on every subject. The Havana Charter by its very broadness perhaps accounted for the difficulty certain countries had in accepting it. Reference had been made to the commodity question. This should be dealt with in a positive way and, it would be useful to examine what kind of principles should form the basis for commodity agreements. Perhaps, however, the Review Session was not the appropriate place or time, given the need to complete its work within a reasonable period. If the new Organization were enabled to give consideration to this problem, a later session might be devoted to its study. This, Mr. Jha, considered should be the general attitude behind the Review, which should be directed toward making the new Agreement flexible, prompt and realistic.

Mr. KOHT (Norway) said that he had already referred to the concern of his delegation that the Review should further the objectives of the Agreement in general, and not only deal with administrative rules. Provision should be made for matters not presently within the scope of the Agreement. His delegation, together with the delegations of Sweden and Denmark, was preparing a proposal concerning restrictive business practices. Cartel activities were an obstacle to free exchange, and it was in the interest of all contracting parties to control the operation of such groups, with a view either to eliminating them or limiting their harmful effects.

While Mr. Koht sympathised with the South African views on the need for economy, his Government was prepared to support within their means those international organizations which seemed worthy of such support.

Mr. MAKATITA (Indonesia) referred to attempts by the League of Nations to deal with commodity problems. This was an old difficulty, and it could not be said that the search for solutions had yet gone beyond the experimental stage. Indonesia thus doubted the advisability of bringing this question within the scope of any rigid regulation, and supported the retention of the present exception contained in Article XX:1(h). They would like reference made in that paragraph to the new United Nations Advisory Commission. Although commodity arrangements might well be regarded as barriers to trade, in present conditions he did not think the Agreement could make specific provision for commodity policy. It might, however, be useful if the new Organization should have the occasion to review the existing arrangements at some time.

Mr. LARRE (France) thought that the problem for the CONTRACTING PARTIES was not to draw up a systematic policy for commodity agreements, but to decide upon the administrative and institutional liaison that would be appropriate between the numerous existing bodies in this field and the new GATT Organization. The question was one of administrative technique rather than policy.

Mr. MONSERRAT (Cuba) supported the proposals of the Australian and Indian delegations that commodity problems should be brought within the scope of the Agreement. His delegation had no views at the present time on the exact means by which this might be accomplished. Certain of the provisions of Chapter VI of the Havana Charter might be taken as a point of departure. There should be co-ordination with the United Nations Advisory Commission.

Mr. VALLADAO (Brazil) considered it important that the commodity field should be brought within the purview of the Agreement. The CONTRACTING PARTIES already had indirect relations, as a result of the decision of the Economic and Social Council that the Chairman of ICCICA should be appointed by them. At its Seventeenth Session, the Economic and Social Council had approved a resolution suggesting that the matter be examined by the CONTRACTING PARTIES during the Review. He referred to what seemed an ambivalent attitude of the United Kingdom delegation on this matter in the CONTRACTING PARTIES and in the Economic and Social Council.

Mr. JOHNSEN (New Zealand) considered that since commodity problems were so closely related to other trade matters, it would be appropriate for some authority to be inserted into the Agreement to deal with these matters, and he supported an enabling provision for that purpose. He also supported the principle of separate commodity agreements drawn up in such a manner that non-contracting parties might also join them.

Mr. BROWN (United States of America) thought that one of the basic merits of the Agreement was that it had proceeded slowly and in a practical way to deal with problems within the scope of its abilities. His delegation was anxious to see an Organization established on a clearer and more effective basis but, they were also anxious that it not be unduly burdened nor its activities dissipated in such a manner as to jeopardize its effectiveness.

On the question of restrictive business practices, the United States had taken the lead in establishing the Ad Hoc Group of experts to prepare an international agreement for the prevention of the harmful effects of cartel practices. It was important that progress in this field should continue through international co-operation, but the question was how best this might be achieved. The Ad Hoc Group of experts had circulated a report in 1953, and the views of only four countries had so far been received by the Secretary-General. The United States Government understood that progress in so technical and legal a field must necessarily be slow, and were hopeful that further study would result eventually in a solution. Since this draft Agreement was pending, Mr. Brown questioned whether it was appropriate to make substantive provisions to bring the matter within the scope of the General Agreement.

Mr. Brown referred to the question of commodities. He recognized the serious problem that the excessive instability in primary commodities posed for the steady expansion of the world economy, and that this problem was particularly acute for countries in the early stages of economic development who were largely dependent on the export of primary commodities. Again, the question was how best to deal with this problem. A great many committees

and study groups already existed in the commodity field, and his Government was persuaded that no commodity problem had gone unsolved for lack of a forum where it might be discussed and acted upon. Consequently, no new mechanism was presently required. The United States Government was doubtful as to the efficacy of extensive resort to commodity agreements, but was nevertheless prepared to consider specific problems as they arose, and to contribute as far as they were able to the solution of this problem of instability. He failed to see how any new provisions under the Agreement could alter the existing situation; each country must in any case decide for itself whether it would participate in any particular commodity agreement. The argument had been advanced that the Agreement was unbalanced without provision for commodity arrangements, but surely any evaluation of this kind must take into account existing machinery, both in and outside of the Agreement.

Mr. COHEN (United Kingdom) supported the views of the Australian, Indian and Cuban delegates that steps should be taken during the Review Session to examine the possibility of extending the scope of the Agreement so as to make possible a study of commodity questions. The organizational provisions should be revised so as to enable some or all contracting parties to conclude supplementary agreements to deal with specific problems related to the basic objectives of the Agreement. He thought it would be desirable for the working party to examine the possibility of attaching a supplementary agreement to the General Agreement bringing commodity policy under its aegis.

With regard to restrictive business practices it might, as the United States delegate had suggested, be premature to undertake at this stage a study of the possibility of a convention on these questions, as it was desirable to wait for the results of the analysis undertaken by the Economic and Social Council. If the governments which were participating in the Ad Hoc Committee decided that international action were required and practicable, it might well be agreed at that time that implementation of such decision could best be undertaken by the new GATT Organization. This could be effected by virtue of the proposed enabling clause.

Mr. Cohen explained that the ICCICA was subordinate, not to the CONTRACTING PARTIES, but to the United Nations. As the chairman of that body, elected by the CONTRACTING PARTIES, he was always available to answer questions. In reply to the Brazilian delegate's inquiry about the United Kingdom position on commodity policy, he explained that if commodity policy were to be dealt with by institutional arrangements, as distinct from the present arrangement of an interim co-ordinating committee, the United Kingdom believed the right body to have authority in this field was the CONTRACTING PARTIES.

Mr. JOHNSEN (New Zealand) called attention to the proposal by his Government (L/270) for the inclusion in the Agreement of more specific provisions relating to full employment. He had noted that the new second Article proposed by the Norwegian delegation related also to this field.

Mr. LARRE (France) supported the New Zealand proposal for the inclusion of provisions relating to full employment. He suggested that if any order of priority were drawn up, this item should not be placed at the end of the program.

The CHAIRMAN, in reply to a question by Mr. Garcia Oldini (Chile), assured him that all proposals, whether or not they had been referred to in the plenary discussions, would be referred to the appropriate working party.

The Chairman, summing up the discussion, remarked that there seemed to be general agreement that the Organization should be placed on a formal basis and its responsibilities enlarged. The Working Party should take into account the proposals and remarks made, including the following:

1. Whether the organizational provisions should be separated from the rules, and contained in a separate protocol.
2. Whether the new Organization should be established under the amendment procedure of Article XXX as suggested by the Canadian delegate, or through the constitutional processes of individual contracting parties as suggested by the Indonesian delegate.
3. The degree of authority to be granted to the executive committee; in this connection several delegations had emphasized that the Assembly of all the Members should be the supreme body.
4. The question of relations with other international organizations; the majority appeared to favour bringing the new Organization into relations with the United Nations as a Specialized Agency. The Chairman pointed out that details of such a relationship had best be drawn up by the Organization itself.
5. The need to reconcile the necessity of enlarging the Organization with the retention of the present advantages of a small and limited structure.
6. The view that the new Agreement should be comprehensive enough to embrace all types of economies.
7. The various proposals for extending the scope of the Agreement; in this connection he called attention to the remarks of the Indian delegate, among others, concerning the danger of prejudicing existing achievements by an attempt to cover too wide a field.

2. The establishment of Working Parties

The CHAIRMAN referred to the proposals for terms of reference and composition of working parties. He explained that the Review working parties were larger than normal, in order to provide adequate opportunity for all contracting parties to participate. The working parties could establish Ad Hoc Groups as required, retaining to themselves the responsibility for final proposals; they were free to co-opt any contracting party, whether

or not a member of the original working party for such groups. In accordance with the general procedure of the CONTRACTING PARTIES, non-members of the working party could attend and participate as observers. Any working party could seek guidance from the CONTRACTING PARTIES and the Steering Group was at their service for whatever assistance it might be able to give. The Executive Secretary would prepare an analysis of the discussion for the four working parties. A legal drafting group would be appointed at the appropriate stage.

As the result of a suggestion by Mr. LOUW (South Africa) and Mr. CRAWFORD (Australia), the terms of reference of Working Party III were amended so as to refer to "subsidies, including export subsidies and other export incentives".

Mr. VALLADAO (Brazil) regretted that the Brazilian delegation had not been included as a member of the working party on tariffs, schedules and customs administration, and enquired as to the criteria for membership in the working parties.

The CHAIRMAN replied that nearly all contracting parties were interested in the working party on tariffs, and in the one on quantitative restrictions, and it had been particularly difficult to establish membership of those two. In establishing the composition of working parties, the Chairman explained that he had taken into account the usual factors, viz. importance in international trade and an adequate representation of various interests and points of view. He repeated that any contracting party was free to attend a working party as an observer and to participate therein. If the Brazilian delegation was able to exchange membership with some other contracting party representing the same point of view, the Steering Group would be glad to consider such a proposal.

Mr. COHEN (United Kingdom) wished to be certain that after the four working parties had reported to the CONTRACTING PARTIES, it would not then be out of order for a contracting party to put forward further amendments, apart from the report submitted. His delegation would wish to make proposals concerning the colonial areas, which related to a general problem and did not lend themselves to consideration by any particular working party.

The CHAIRMAN said that the final consideration of any question rested with the CONTRACTING PARTIES. It would, of course, expedite matters if proposals could be made at an earlier stage. If there were proposals that did not seem to pertain to any particular working party, they could be brought to the CONTRACTING PARTIES which might, if necessary, set up a special group to consider them.

Dr. PRIESTER (Dominican Republic) regretted that his delegation had not been included in the Working Party on Quantitative Restrictions, a subject on which it had made an extensive statement and to which it attached particular importance.

The CHAIRMAN repeated the regrets he had already expressed to the Brazilian delegation and said that, similarly, if the Dominican Republic was able to exchange membership with another contracting party, the Steering Group would be willing to consider such a proposal.

In reply to a question by the delegate of Haiti, the Chairman explained that the reference to administration in the terms of reference of the working party on organizational and functional questions broadly covered all matters relating to the Organization.

The terms of reference for the four working parties, as amended, and their membership was approved. (W.9/1/Add. 5,6,7, and 8).

3. Second Interim Report on Working Party 1 on Article XVIII Applications (L/281)

Mr. GOERTZ (Austria), Chairman of the Working Party, introduced the Second Interim Report which related to the application of Ceylon concerning cotton banians. The Working Party had considered that the request should be made under paragraph 8. The Ceylon delegation had indicated its willingness to proceed according to the provisions of sub-paragraph (a) thereof, and that it would enter into direct consultations with the CONTRACTING PARTIES which it judged would be materially affected by the proposed measure, namely India, and the United Kingdom in respect of Hongkong. The Working Party proposed that the CONTRACTING PARTIES request that the Working Party be notified as soon as possible, and in any case not later than 23 November, by any contracting party other than those two, which considered itself materially affected by the measure.

The CONTRACTING PARTIES adopted the Second Interim Report of the Working Party on Article XVIII Applications and requested that any contracting party considering itself materially affected so notify the Working Party.

4. Italy/Libya - Draft Decision (W.9/13)

The CONTRACTING PARTIES approved the draft decision amending the Annex to the Decision of 9 October 1952, granting a waiver for the application by Italy of special customs treatment to certain products of Libya, so as to substitute 25,000 quintals for 10,000 quintals as the annual tariff quota for olive oil.

5. South Africa/Southern Rhodesia Customs Union - Draft Decision (W.9/6)

The CONTRACTING PARTIES approved the draft decision extending the period during which the Governments of the Union of South Africa and the Federation of Rhodesia and Nyasaland could continue to avail themselves of the declaration of 18 May 1949, until the Tenth Session.

The Meeting adjourned at 5.30 p.m.

