

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES  
Ninth Session

## SUMMARY RECORD OF THE THIRTY-EIGHTH MEETING

Held at the Palais des Nations, Geneva,  
on Monday, 28 February 1955, at 10 a.m.

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

Subjects discussed: Report of Review Working Party IV

### Report of Review Working Party IV (L/327/Corr.1)

Mr. COUILLARD (Chairman of Review Working Party IV) introduced the report. He emphasized that parts of the report contained compromise solutions representing a careful balance between opposing views. These had only been reached after detailed negotiations and any changes might endanger the compromises reached on such questions as the functions of the Organization, provisions relating to the Executive Committee, definitive application, and the new first Article together with the deletion of Article XXIX. Mr. Couillard called attention to the agreement of the Working Party that the Organizational Agreement should contain only the basic provisions relating to the structure and functions of the new Organisation and that many questions of detail would consequently have to be included in rules of procedure to be drawn up by the Assembly and subsidiary bodies. He observed that the Working Party proposed that the amendments to Articles XXIII, XXV and XXXIII be included in a separate protocol to enter into force at the same time as the Organizational Agreement. Generally the Working Party had not supported proposals to introduce new provisions into the GATT. On the other hand solutions to a number of proposals which were made had been based on reliance on the provisions of Article XXIII and the proposed amended Article XXII providing for multilateral consultations conducted by the Organization. Furthermore, the proposed functions of the Organization were such as to make possible consideration of and action on a wide range of questions in the field of international trade. Mr. Couillard called attention to the sections in the report dealing with purposes and objectives, the recommendations for additions to Articles XVIII and XXII, the proposed resolution on international investment for economic development and the recommendations concerning the continuing administration of the Agreement. With regard to the definitive application of the Agreement, the Working Party recommended the adoption of a general reservation which was contained in Annex 6. This reservation must be accepted by all contracting parties individually and would, when agreed to by all contracting parties, constitute an acceptance by them, in advance, of a reservation attached by any contracting party to its definitive acceptance

of the Agreement, provided that the reservation was limited to a continuation of rights which that contracting party enjoyed at the present time with respect to existing mandatory legislation inconsistent with Part II under its provisional application.

The report was then taken up paragraph by paragraph and comments were made on individual paragraphs as noted below.

#### Organizational Agreement

Mr. SEIDENFADEN (Denmark) referring to the draft Organizational Agreement raised the question of whether it would not be advisable to use Arabic figures in the General Agreement and, if a distinction must be made between the two documents, could not Roman figures be used in the Organizational Agreement.

Upon information that the Legal and Drafting Committee had considered this point and supported the retention of the existing enumeration in the General Agreement, it was agreed to maintain the status quo.

The CONTRACTING PARTIES endorsed the interpretation contained in paragraph 9(c) of the report, relating to the functions of the Organization, and agreed that the Organization should, in accordance with the provisions of Article 3, sub-paragraph (b)(iii) consider studying definitions of value, procedures for determining value, standardization of rules and procedures relating to dumping, subsidization and anti-dumping and countervailing duties, when appropriate.

The CONTRACTING PARTIES, at the suggestion of Dr. NAUDE (South Africa), endorsed the view expressed in paragraph 10 that both the Assembly and the Executive Committee should meet at the headquarters of the Organization unless there were strong reasons to meet elsewhere.

Mr. MACHADO (Brazil) referring to paragraph 11 and Article 6 sub-paragraph (a)(i), proposed the deletion of the word "the" in the first line (the paragraph would then begin "the Executive Committee shall include members of chief economic importance ....."). He requested a roll-call vote on this proposal. If the word "the" were maintained, a number would have to be specified in the paragraph, be stated.

Mr. BROWN (United States) said that this matter had already been discussed at length in the Working Party and in the CONTRACTING PARTIES. It involved a substantive point of great importance to a number of delegations and the text as it stood at present should be recognized as part of the basic agreement reached in the Working Party. He was willing to discuss the Brazilian proposal in its ensemble, namely the deletion of the word "the" together with the insertion of a specific number.

The delegates of Uruguay, Indonesia, Chile and Turkey supported the proposal of the Brazilian delegate, the Chilean delegate considering that the text proposed by the representative of Brazil made for a clearer statement of the situation.

Mr. IBSEN (Norway) opposed the Brazilian proposal and observed that the text had been carefully considered by the Working Party.

Mr. HADJI VASSILIOU (Greece) thought it would be dangerous to fix a specific number of members of chief economic importance since, given the strength of tradition, this would be likely to result in fixing forever permanent seats on the Executive Committee.

Upon the Brazilian delegate explaining that he was unable to accept any amendment to his proposal and was instructed to call for a roll-call vote, the proposal was put to a vote.

The amendment proposed by the Brazilian delegate was supported by the following delegates: Austria, Brazil, Burma, Ceylon, Chile, Cuba, Czechoslovakia, Greece, India, Indonesia, Italy, Pakistan, Peru, Turkey, South Africa and Uruguay. It was opposed by: Belgium, Canada, Denmark, Finland, France, Germany, Japan, Luxemburg, Norway, Netherlands, Rhodesia and Nyasaland, Sweden, the United Kingdom and the United States. The Australian and New Zealand delegates abstained. The Dominican Republic, Haiti and Nicaragua were absent.

The proposal was thus carried by sixteen votes in favour, thirteen against and two abstentions.

The delegates of Belgium, Canada, France, Germany, the Netherlands, the United Kingdom and the United States reserved the positions of their Governments on the amended Article 6.

Dr. SVEC (Czechoslovakia), referring to paragraph 11 of the report, to which he did not object, observed that Czechoslovakia had an economic system different from that of other contracting parties.

Mr. COHEN (United Kingdom) referring to paragraph 14(a) and Article 11 said that one of the main objectives of his delegation in drawing up the organizational provisions, and in particular those which set out the functions of a new Organization, had been to ensure that the process of transferring the functions and powers of the CONTRACTING PARTIES to the new Organization and setting them out in the Organizational Agreement should not result in their becoming more restricted than those presently enjoyed by the CONTRACTING PARTIES. Although the functions of the new Organization were less generally drafted than his delegation might have wished, they were broadly satisfactory to them. He wished to record his understanding which he assumed to be generally acceptable, that the Organization could, where appropriate, work out with parties to agreements other than the General Agreement, arrangements with a view to the effective coordination of secretariat facilities and the avoidance of uneconomic and unnecessary duplication of activities.

In reply to a question by the Brazilian delegate, Mr. Cohen explained that he referred in particular to organizations other than those which were coordinated under the Economic and Social Council, in particular any which might be set up in the future to deal with problems mentioned in the new Organizational Agreement. In reply to a question by the Pakistan delegate, he said that coordination of the type his delegation had in mind would call for a specific decision by the Organization.

Mr. BROWN (United States) did not disagree with the understanding of the United Kingdom representative. The position of his Government on the advisability of establishing new organizations of the type the United Kingdom presumably had in mind was well known.

Mr. Brown wished also to emphasize that his delegation attached great importance to bringing the new Organization into relationship with the United Nations as a specialized agency.

Mr. HADJI VASSILIOU (Greece) and Dr. SVEC (Czechoslovakia) supported the view that the new Organization should be brought into specialized agency relationship with the United Nations. Dr. Svec would have preferred the language of Article 11 to be mandatory rather than permissive, and, in view of the importance he attached to coordination with the United Nations and especially the Economic and Social Council and its regional commissions, reserved the position of the Czechoslovak delegation on paragraph 14.

Mr. NAUDE (Union of South Africa), referring to paragraph 14, said that in the initial stages of the Ninth Session, his delegation had urged that the permanent trade organization should be independent (SR.9/18). The South African representative had opposed intimate relations with the United Nations as undesirable, since as the latter was an almost entirely political body whose affairs could not happily be mixed with those of a business organization such as was now contemplated and had added that the fact that many members of the United Nations were not contracting parties to the General Agreement could have undesirable effects.

When the question of the relations of the proposed permanent Organization with other organizations first came up for discussion in Working Party IV, his delegation had again expressed serious doubts as to whether any institutionalized relationship with the United Nations should be envisaged. The General Agreement was concerned with matters of such a practical nature, involving contractual obligations in respect of trade and commerce, as to make it undesirable for the proposed Organization to be established under the aegis of the United Nations. Some delegations had appeared to feel that the views of his delegation on this matter deserved consideration and, when the proposals from United Nations Headquarters that a very close integration with the United Nations was deemed by them desirable, the effect had seemed to be to encourage support for the South African view. The draft report of a sub-group of the Working Party seemed nearly acceptable to his delegation. The Australian delegation had suggested that whatever relationship with the United Nations the Organization decided upon, it should not have the form of that relationship spelled out in its organic charter and, accordingly, that

the phrase "as one of the Specialized Agencies referred to in Article 57 in the Charter of the United Nations" should be deleted from the article in the draft Agreement. The sub-paragraph in the article still seemed unnecessary, as enough power would be given to the Organization under another sub-paragraph for it to make whatever arrangements it desired with intergovernmental bodies and agencies which had related responsibilities. But the deletion of the reference to Specialized Agency status would at least leave the Organization free, in the light of the circumstances prevailing at the time, to make whatever arrangement it saw fit. At this point, his delegation had hoped to be able to withdraw its reservation on the relevant article if it were possible to secure agreement on language in the report which would recognize that the Assembly and the Organization would remain free to decide on any special arrangements of whatever nature with the United Nations. To their regret and surprise, South African views and those of delegations he had thought in some sympathy, seemed to have been completely brushed aside. Under paragraph 14 of the report of the Working Party IV, the freedom of action of the Organization in respect of relationship with the United Nations was, in effect, lost, as also was its freedom if such relationship were established. The language of the paragraph was contradictory, how could the new organization be autonomous or independent and still within a coordinated pattern?

The General Agreement was an entirely new departure in international life. At this stage when the future could not possibly be foreseen it was unwise to tie the hands of the Organization on a matter which might have serious consequences.

Mr. CRAWFORD (Australia) said that the South African representative had correctly cited the Australian view as expressed in Working Party IV. Although the Australian delegation was not able to go as far as the South African delegation, they sympathized with the latter's point of view. They would not wish to see the new Organization integrally part of the United Nations but were predisposed in favour of a specialized agency status and tended to agree with the bias expressed in paragraph 14(a) of the report and Article 11 of the Organizational Agreement. They attached importance to the phrase "subject to a satisfactory agreement being negotiated" and considered that if the new Organization failed to negotiate such an agreement they would not enter specialized agency status and would then resort to the provisions of sub-paragraph (a) of Article 11.

Dr. PORCEL (Cuba) supported the permissive language in the Organizational Agreement but the language contained in paragraph 14(a) of the report raised the same doubts in their minds as expressed by the South African delegate and he would reserve the position of his delegation on that paragraph.

Mr. RICHES (International Labour Organization) stated that the International Labour Organization was pledged under its Constitution to cooperate fully with such international bodies as might be entrusted with responsibility for securing the fuller and broader utilization of the world's productive resources. The fields of international action which were relevant for that purpose included measures to expand production and

consumption, to avoid serious economic fluctuations, to promote the economic and social advancement of the less-developed regions of the world, to ensure greater stability in world prices of primary products, and also to promote a high and steadily expanding volume of international trade.

The International Labour Organization had accordingly taken a keen interest in conferences and international agreements relating to international economic relations such as the Havana Conference, the various commodity conferences, the work of the United Nations Committee on Restrictive Business Practices and the important achievements of the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade.

The ILO was particularly interested in the work of the present Session of the CONTRACTING PARTIES, and especially in the plans for the establishment of a permanent organization charged with a somewhat wider range of functions than the administration of the Agreement. The General Agreement itself involved certain matters of direct concern to the ILO. To the extent that additional functions entrusted to the new Organization were concerned with the raising of living standards, equitable distribution of the fruits of economic progress and the achievement and maintenance of full and productive employment of labour, the area of interest common to the Organization and the ILO would be extended.

The present General Agreement mentioned the raising of living standards, the ensuring of full employment and of a large and steadily growing volume of real income and effective demand, the development of the full use of the resources of the world and the promotion of economic development, as aims to which the CONTRACTING PARTIES wished to contribute through the elimination of obstacles to mutually advantageous international trade. The CONTRACTING PARTIES were thus concerned with such problems as the coordination of action to promote closer economic relationships with measures to maintain stability of production and employment within the participating countries and to expand the opportunities for productive employment in areas which were in process of industrialization.

The European Regional Conference of the ILO which met in Geneva in the preceding month discussed at considerable length a number of policy questions related to the freer international movement of commodities and productive resources. The discussions concentrated more particularly on plans for the economic integration of Europe, but the problems which were raised in that connexion were also of general interest. They included the problems of social policy involved in the shifts in the pattern of production and employment which would follow a substantial reduction in obstacles to international trade, and the question whether international differences in labour costs and especially in social charges constituted an obstacle to freer trade. As a result of these discussions the Governing Body of the ILO now had under consideration a proposal that a group of international experts of high standing should be invited to study and to report to it on the social problems which were raised by proposals for closer economic integration in Europe. It also had under consideration a

proposal for a statistical enquiry into wages and social charges in European industry, designed to collect information on a comparable basis.

The common interests of the ILO and of organizations having specific responsibilities in the field of international economic relations were recognized some years ago, when proposals for the establishment of an International Trade Organization had reached an advanced stage and an agreement between the proposed ITO and the ILO was drafted by ICITO and the ILO. That proposed agreement, which was approved by the Governing Body of the ILO, provided for effective cooperation and consultation between the two agencies, especially in questions relating to action to maintain employment, production and demand, and to foster and assist industrial and general economic development, and in matters relating to the achievement and maintenance of fair labour standards in international trade, certain aspects of intergovernmental commodity arrangements and the exchange of statistical information.

The Director-General of the International Labour Office, who had followed with the greatest interest the progress made at the present Session of the CONTRACTING PARTIES had asked Mr. Riches to convey to them the sincere wish of the ILO that their efforts be crowned with success. He also wished to reiterate the ILO's keen interest in the further development of the work of the CONTRACTING PARTIES and its desire to be associated with them through such arrangements for mutual cooperation and consultation as might be appropriate under the Constitution of the new Organization which would now be established.

Mr. GARCIA OLDINI (Chile) thought that possibly the citation of Article 57 of the United Nations Charter in the Organizational Agreement and of Article 63 in the report had caused some confusion. There really did not seem to him to be any conflict between the desire that the Organization should be autonomous and the desire to establish relations with the United Nations.

The EXECUTIVE SECRETARY agreed that the text of the report was perhaps unduly compressed, Article 57 of the United Nations Charter established the principle of specialized agency relationship while Article 63 laid down the mechanism of that relationship. The process of becoming a specialized agency was one of agreement, an agreement that must be acceptable to both parties. The fact that the relationship was a matter of contract meant that the Organization would be able to safeguard its autonomy in the agreement to be drawn up.

The reservations of Cuba, Czechoslovakia and South Africa to paragraph 14 were noted.

Mr. MACHADO (Brazil) referring to Article 7 of the Organizational Agreement relating to the secretariat, observed that neither in the Article nor in the report was there any mention of safeguarding the position of the existing staff of the GATT. He thought the CONTRACTING PARTIES should

recommend that the existing staff should be absorbed into the secretariat of the new Organization, at the discretion of the Director-General, and that their accumulated rights should be safeguarded and maintained.

It was agreed that the proposal by the delegate of Brazil with respect to the secretariat expressed views of the CONTRACTING PARTIES.

The EXECUTIVE SECRETARY wished to express, on behalf of all the secretariat, his appreciation of the thoughtfulness of the Brazilian delegate and of the expression of confidence in the secretariat that it showed.

Mr. BROWN (United States), referring to Article 20 said that, while he agreed with the Article on Provisional Application, he must explain that his Government would not be able to apply the Agreement until it had been approved by Congress. They intended to submit it to Congress immediately.

#### Scope of the Agreement

Mr. MACHADO (Brazil), referring to paragraph 18 on Commodities, wished to record the view of his Government that, since not all contracting parties would be able to participate in the work on commodities, they felt that this work could serve no useful purpose. They would have wished the GATT to undertake responsibilities in this field but considered that without unanimous support by contracting parties a wrong impression could be created. His delegation would abstain on this paragraph.

Dr. SVEC (Czechoslovakia) said that his delegation had abstained when the Interim Report on Commodity Questions had been considered by the CONTRACTING PARTIES, and would reserve his position on paragraphs 18 and 20 of the Report.

Mr. PERERA (Ceylon), referring to paragraph 21, explained that the reservation of his Government, which he maintained, arose from the negative language proposed. His delegation would have preferred provision for positive action.

Dr. POPCEL (Cuba) referring to paragraph 25 and the recommendation to delete Article XXIX, maintained his reservation pending the receipt of instructions.

Mr. MACHADO (Brazil) referring to paragraph 38, Monopolistic Practices in Transport and Shipping, wished to draw the attention of the CONTRACTING PARTIES to the different treatment which they were giving to the proposal regarding transport insurance and the proposal regarding transport and shipping. The latter was also an important factor in international trade and much remained to be done in applying GATT principles in this field.

Relations with non-contracting parties

Dr. PORCEL (Cuba) thought paragraph 41 did not exactly express the view of his delegation and suggested that the last sentence be deleted. In their view Article XXIII applied only among contracting parties.

The delegates of Burma, Brazil, Uruguay, and Indonesia agreed with the Cuban view. The delegate of Brazil requested a vote on the interpretation contained in paragraph 40.

Mr. AZIZ AHMAD (Pakistan) referred to the statement, in paragraph 40, that "in considering any particular case the CONTRACTING PARTIES would naturally have regard to the principles and provisions of the various Articles of the Agreement including, for example, Article XIV". His delegation could accept this paragraph only on the understanding that this phrase meant that the CONTRACTING PARTIES agreed that the rights of a contracting party to deviate from the rule of non-discrimination in its relations with another contracting party under Article XIV or other provisions would apply equally to its relations with a country not party to the General Agreement.

Discussion was deferred on this question pending receiving a written proposal, the Cuban delegate having indicated that he could not agree to such an interpretation which would apply only in the case of a country in balance-of-payments difficulties.

Dr. NAUDE (Union of South Africa) referred to the original proposal by his delegation for the insertion of an Article in the Agreement on relations with non-contracting parties. It would be understood therefore, that paragraph 40 did not satisfy his delegation.

The countries represented among the contracting parties had all accepted the principle that discrimination in international commerce should be eliminated. When the General Agreement was negotiated it was particularly the United States which had propagated this principle. South Africa had been fully prepared to join with other signatories to the General Agreement in an attempt to establish the rule of non-discrimination and in doing so had signed away its freedom of action to negotiate with its partners in the Commonwealth for increased tariff preference. They had done so willingly for the establishment of a non-discriminatory system of world trade. His delegation was therefore somewhat perplexed by the reactions of some contracting parties to the South African proposal on relations with non-contracting parties. The Agreement, it was true, did not yet embrace all the countries of the world, but present contracting parties accounted for more than 80 per cent of world trade. One of the principles to which all had agreed was that as contracting parties, they should not seek to secure exclusive privileges in each other's markets to the detriment of other contracting parties. In submitting their proposal the South African delegation had assumed that it would be regarded as a natural corollary to the principles contracting parties had accepted in their relations with one another - that the contracting parties having agreed to adhere to certain rules in their trade

with one another would be willing to accept similar rules of fair conduct in their relations with non-contracting parties, to the extent that their actions and policies in this limited field of world trade was not yet covered by the General Agreement. The discussions has clearly shown that his delegation's assumptions were completely wrong and that contracting parties which professed to be strong supporters of the rules of non-discrimination and fair trade, nonetheless wished to retain complete freedom for themselves to disregard these rules in so far as their actions in the markets of non-contracting parties were concerned. His delegation had observed this attitude with distress.

Mr. GARCIA OLDINI (Chile) joined other delegations in opposing paragraph 40. He opposed both the substance of the paragraph and the method of inserting in a report new obligations which did not exist in the Agreement. He would also reserve the position of his delegation.

A vote was taken on paragraph 40, which was upheld by seventeen votes in favour, ten against.<sup>1</sup> South Africa abstained.

Turkey reserved its position on the paragraph, Czechoslovakia reserved its position on the last phrase of the paragraph which was abstract and unclear, in their view.

The meeting adjourned at 1 p.m.

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<sup>1</sup>Greece, which had abstained, announced at a subsequent meeting that it joined the ten opposing paragraph 40.

