

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

SR.9/39
28 February 1955

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CONTRACTING PARTIES
Ninth Session

SUMMARY RECORD OF THE THIRTY-NINTH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 28 February 1955, at 6 p.m.

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

Subject discussed: 1. Report of Review Working Party IV

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

Continuing Administration of the Agreement

Mr. FOWLER (New Zealand) referred to paragraph 46 and the amendment to the existing procedures relating to applications under Article XXVIII (Annex 5, page 43). His delegation had recorded a reservation. Contracting parties should have the right to refer any action taken by the Intersessional Committee to the CONTRACTING PARTIES, particularly now that it was proposed that Article XXVIII, paragraph 4, should become operative forthwith. He proposed the insertion of a paragraph along the lines of the existing paragraph 7.

Discussion was deferred on this question pending receiving a written proposal, the Australian delegate having supported the New Zealand proposal.

Mr. GARCIA OLDINI (Chile) referred to paragraph 52. His delegation had opposed the suggestion of the Danish delegation for the appointment of qualified panels from the beginning, more because of the manner of its presentation than for the idea contained in the suggestion. A careful study of so delicate a subject was essential. Moreover, Working Party I had also examined this question and decided to defer any action on it pending further study.

Mr. SWAMINATHAN (India) referred to the report of Working Party I on this subject (L/332/Rev.1, page 9) and its suggestion that the Executive Secretary consider the problem and put forward concrete proposals for consideration at the Tenth Session.

Mr. AZIZ AHMAD (Pakistan) referred to the reservation of his delegation on the last sentence of the paragraph since they were unable to agree that the Intersessional Committee be authorized to experiment with the proposed techniques. The result would be to have panels composed almost entirely of Europeans which would be a serious departure from the past procedure. Moreover, in view of the report of Working Party I, it would be inappropriate to adopt the paragraph as proposed.

Mr. MACHADO (Brazil) had been in favour of study of the original proposal which suggested an innovation. Paragraph 52 of the Working Party report did not suggest anything different from the past procedure of the CONTRACTING PARTIES. He would support study by the secretariat of the original Danish proposal and a report at the Tenth Session.

Mr. BROWN (United States) saw no inconsistency between the suggestion in the report of Working Party I that a study be made of this matter and the suggestion in the report of Working Party IV that the procedure might be experimented with. Both would be useful.

Mr. FOWLER (New Zealand) maintained the reservation of his delegation that if this technique were to be experimented with it should be done by the CONTRACTING PARTIES at their regular sessions and not by the Intersessional Committee.

It was agreed to delete the last three sentences of paragraph 52 and to replace them with the language of paragraph 34 of Working Party I's report to the effect that the Executive Secretary be invited to consider the problem and, if possible, put forward concrete proposals for consideration at the Tenth Session.

Definitive Application

Mr. MACHADO (Brazil) referred to the inequity that would exist as a result of different constitutional systems and thought that some method should be devised for the settlement of disputes between two contracting parties - one of which was applying the Agreement fully and the other of which was making use of the proposed reservation. Brazil would be among those countries which applied the Agreement completely.

Mr. SWAMINATHAN (India) explained that, while most Indian legislation was in fact mandatory, it appeared to be permissive and account should be taken of this.

Mr. SEIDENFADEN (Denmark) said that the Scandinavian delegations had raised the question of definitive application and had felt that the Agreement should be applied in the same manner by all countries. The amendments they had proposed had not met with approval. They would be able to accept the solution proposed by the Working Party provided paragraph 58 of the report were retained in the form in which it appeared.

Mr. PRESS (New Zealand) referred to a memorandum which his delegation had sent to the Executive Secretary stating that in their view the decision should include stronger provision than a "recognition of desirability" that contracting parties should adjust their mandatory legislation as soon as practicable. Moreover, there should be incorporated, in the provision for annual reviews, language similar to that employed in connection with the review to take place at the end of three years. His delegation was therefore not authorized to agree to the terms of the reservation proposal because of the inequality involved by this procedure.

It was agreed to revert to the question of definitive application at a later stage.

The EXECUTIVE SECRETARY pointed out that, unless all contracting parties could notify their agreement with the proposed reservation, the subject of Article XXVI would have to be re-opened.

Relations with non-contracting parties

The CONTRACTING PARTIES reverted to paragraph 40 of the Working Party Report and the suggested interpretation of the words, contained in brackets in the middle of the paragraph, by the delegate of Pakistan, (see SR.9/38, page 9). The interpretation proposed by the Pakistan delegate 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 relation with a country not party to the General Agreement" was approved by those contracting parties which had voted in favour of paragraph 40 at the previous meeting. The position of those who voted against that paragraph was recorded in the summary in the results of the vote and the reservations specifically recorded.

The report of Review Working Party IV was approved subject to the amendments and reservations noted.

Paragraph 46 relating to continuing administration and the New Zealand proposal concerning the new procedures for Article XXVIII applications would be reverted to at a later meeting. The paragraphs relating to definitive application (53-58) were also deferred for consideration at a later meeting. The Annexes, comprising the draft organizational agreement, the proposed amendments to the General Agreement, the proposed resolution on international investment and the reservation on acceptance pursuant to Article XXVI, would be considered when the text of the Protocols was taken up.

The meeting adjourned at 7.30 p.m.