

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES

Ninth Session

SUMMARY RECORD OF THE FORTY-FIFTH MEETING

Held at the Palais des Nations, Geneva,
on Saturday, 5 March 1955, at 2.30 p.m.

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

- Subjects discussed:
1. Election of the Intersessional Committee
 2. United States Waiver (cont'd)
 3. Texts of Articles proposed by the Legal and Drafting Committee
 4. Report of Working Party on United Kingdom Waiver
 5. Report of Working Party on Special Problems of the Dependent Overseas Territories of the United Kingdom
 6. Report of Working Party on Waiver requested by Czechoslovakia

1. Election of Intersessional Committee

The CHAIRMAN read the report by the tellers on the results of the balloting to the effect that they had examined the ballot papers and found them in order. The following seventeen contracting parties had received the highest number of votes cast and each of them received more than a simple majority of the contracting parties:

Australia	Canada	Germany	Pakistan
Austria	Chile	India	Sweden
Belgium	Cuba	Indonesia	Union of South Africa
Brazil	France	Italy	United Kingdom
			United States

The CONTRACTING PARTIES agreed that the Intersessional Committee thus composed met the criteria set forth in Basic Instruments and Selected Documents, Volume II, page 201, and it was declared elected.

2. United States Waiver (L/339) (continued)

Mr. COUILLARD (Canada) wished to make the following observations concerning the important decision just taken to grant the United States a waiver. His delegation had on several occasions explained to the CONTRACTING PARTIES the importance for Canada of exports of agricultural products to the United States. Many countries besides Canada were dependent on the United States market for a significant part of their agricultural exports and were affected by the decision. But none was more affected than Canada, two thirds of whose total foreign trade was with the United States and an important part of that trade being in the field of agriculture. Tariff negotiations between Canada and the United States had been the most extensive of all the negotiations held under the Agreement. Among the most important concessions Canada had paid for were concessions by the United States on agricultural products covering a large part of Canadian agricultural exports. It was these exports and these concessions which were threatened by the waiver now granted. Action which the United States could take under that waiver to restrict Canadian exports could serve to unbalance her tariff bargain with that country. It should therefore be evident to the CONTRACTING PARTIES how seriously the Canadian Government regarded the waiver and how closely they would observe the future behaviour of the United States pursuant to it.

Although the waiver contained no terminal date, this could not mean that the United States was relieved for an indefinite period from its obligations under Articles II or XI. On the contrary the CONTRACTING PARTIES had it clearly within their power at any time to modify the terms of the waiver or indeed withdraw it entirely. Furthermore all waivers were in effect granted conditionally, subject to good behaviour and having in mind the terms of the Agreement and the interests of all contracting parties. That was one of the main purposes of the provision for an annual review of operations under the waiver. It would be the intention of the Canadian Government, should restrictions be threatened against Canadian agricultural exports, to press just as strongly as in the past for adherence to the provisions of Articles II and XI and in particular to the principle of "fair shares".

He would have preferred that the language be stronger under paragraph 3 of the waiver, so as to lay a formal obligation on the United States not to interfere with "normal imports". Had such an obligation been accepted by the United States, their attitude to the request might have been different. Although the waiver did not impose a firm obligation on the United States to respect normal trade, the Canadian Government would regard it as unreasonable and unwarranted if the waiver were used to exclude normal imports, i.e. imports which would have entered normally and in the absence of any United States price support or other domestic agricultural programmes. Should such a situation develop it was the view of his Government that the CONTRACTING PARTIES would be entirely justified in withdrawing the waiver and they would so recommend.

He once more emphasized the extremely difficult situation created for the Canadian Government by the granting of this waiver which had relieved so important a country of its formal obligations under the Agreement in the agricultural field. His Government would keep the situation under close review and felt sure that any action which it might be compelled to take as a consequence of action under the waiver would be regarded in a sympathetic manner by the CONTRACTING PARTIES.

Mr. COHEN (United Kingdom) stated that the waiver which had been approved that morning for the United States differed in important respects from all waivers which the CONTRACTING PARTIES had ever approved, or were likely to have proposed to them. This was not only by reason of the trade to which the waiver might relate but because, unlike any other comparable waiver, it reserved for the CONTRACTING PARTIES no power to restrain the action to be taken by virtue of its provisions. The waiver gave discretion to the United States Government to restrict imports as they themselves judged to be necessary for the purposes of their legislation. However, the CONTRACTING PARTIES had every reason to look to the United States Government to have the fullest regard for their views and representations, and to assure in all other ways open to them that no quota or fees be applied in excess of the real needs of the situation in any case. Mr. Cohen expressed the hope of the United Kingdom Government that, after an appropriate interval, the CONTRACTING PARTIES would undertake a comprehensive review of the waiver in the light of practical experience of its operation.

Mr. CRAWFORD (Australia) stated that there was one qualification in the waiver just granted to which the Australian Government attached great importance, the annual review. They felt that the CONTRACTING PARTIES were free at any time to withdraw the waiver and hence the rights of the United States were not unfettered. They would exercise the most rigorous scrutiny each year over all actions under the waiver, or failure to act appropriately in its terms. His delegation regretted the absence of an agreed time for a special review of the waiver and for them each annual review would be a special review becoming more important with each succeeding year. If, in four or five years time, there had been no change in United States policies, they would feel entitled to review the waiver regardless of the probably impeccable conduct of the United States Administration in the meantime. They would not regard withdrawal of the waiver after such a major review as an arbitrary act. The decision of his delegation to support the waiver had been based on the most farsighted analysis of Australian interests that they could make and, without prejudice to their own Government's final attitude to the GATT, he wished the United States Government well in presenting the Organizational Agreement to Congress.

Mr. SEIDENFADEN (Denmark) associated himself with the hope expressed by the United Kingdom representative that the CONTRACTING PARTIES would undertake a comprehensive review of the waiver after an appropriate interval.

Mr. BROWN (United States of America) expressed the satisfaction of his delegation that the CONTRACTING PARTIES had agreed to accord this waiver, which he knew had been a difficult decision for many among them. He did not share the pessimistic views expressed by the Cuban delegate and looked forward to the annual review to show that such views were unwarranted. His Government appreciated the understanding which had been shown by contracting parties in their discussion of this matter.

3. Reports of the Legal and Drafting Committee (W.9/236 Add's 1, 2 and 3 and W.9/241)

Mr. PEREZ CISNEROS, Chairman of the Legal and Drafting Committee, introduced the texts proposed by the Legal and Drafting Committee for Articles II, VI, VII, VIII, IX, XVII, XX and Annex B, and Article 14 of the Organizational Agreement (W.9/236/Add.1).

The CONTRACTING PARTIES approved the changes proposed with certain corrections to be noted and included in the final protocols.

Mr. PEREZ CISNEROS, Chairman of the Legal and Drafting Committee, introduced the text proposed by the Legal and Drafting Committee for Article XVIII and related notes (W.9/236/Add.3).

After some discussion of paragraph 3 it was agreed to revert to the original text proposed by the Working Party. The remainder of the texts proposed were approved with certain changes and corrections to be noted and included in the final protocols.

Mr. PEREZ CISNEROS, Chairman of the Legal and Drafting Committee, introduced the text proposed by the Legal and Drafting Committee for Articles XXIII, XXVIII, XXIX, XII and XIV and the notes to Articles XXVIII, XXIX, XII and XIV (W.9/236/Add.3). He explained that they had proposed an alternate text for Article XXVIII in which the drafting changes were so considerable that it had not been possible to indicate them in the usual manner.

Mr. VARGAS GOMEZ (Cuba) thought that, while he could see a number of improvements in the text proposed by the Legal and Drafting Committee, so radical a change in an article which had been agreed with considerable difficulty must inevitably lead to a long discussion and he proposed that the original text should be retained. In particular he was concerned at the text proposed by the Committee for paragraph 3.

After considerable discussion had shown that a number of delegates would have difficulty in accepting the text proposed by the Legal and Drafting Committee, it was agreed to refer this matter for further study by the Legal and Drafting Committee in consultation with interested delegates.

The texts proposed by the Legal and Drafting Committee for the other Articles were approved subject to certain changes and corrections to be noted and included in the final protocols, and subject to a reservation by the Chilean representative.

4. Report of Working Party 7 on the United Kingdom request for Waiver from Article I (W.9/237)

The CHAIRMAN, in the absence of Mr. BELFRAGE (Sweden), Chairman of the Working Party, introduced the report of the Working Party.

Mr. VARGAS GOMEZ (Cuba) said that the position of his Government with regard to waivers was well known and he would reserve the position of his Government on the report and vote against the proposed decision.

Mr. FINNMARK (Sweden) said that it was with great reluctance that they had finally voted in favour of the United Kingdom request for a waiver at the preceding Session. Their fears that this might prove to be only a first step in a progressive weakening of the no-new-preference rule were not allayed by this new request. That they were prepared to vote in favour of the amendment despite these hesitations was solely because of the assurances given by the United Kingdom representative in the Working Party that his Government would have recourse to the additional facilities provided for in the present decision only under special circumstances and subject to the strict limitations attaching to the waiver granted at the preceding Session. They had been impressed by the careful fashion in which the United Kingdom Government had adhered to the procedures of the waiver and were satisfied that they would act in the same way under the present decision, and that the CONTRACTING PARTIES would have an opportunity to discuss and reconsider the matter in connection with the annual report to be submitted.

Mr. MACHADO (Brazil), Mr. NATADININGRAT (Indonesia) and Baron BENTINCK (Netherlands) said that they would abstain in the vote on this decision for reasons which they had already given during the previous discussion of the matter (SR.9/37).

The CONTRACTING PARTIES approved the amendment of the waiver to the United Kingdom in connection with items traditionally admitted free of duty from countries of the Commonwealth, by a vote of 25 in favour to 1 against.

5. Report of Working Party 5 on the Special Problems of the Dependent Overseas Territories of the United Kingdom (L/344)

Dr. ENDERL, Chairman of the Working Party, introduced the report. The proposal, which the United Kingdom had submitted in the form of an amendment to the General Agreement, the Working Party considered could

more effectively and more appropriately be dealt with by means of a decision granting a waiver. A decision would not mean a breach in the no-new-preference rule, the sovereignty of the CONTRACTING PARTIES would remain unimpaired, and action to be taken under the waiver would be the subject of annual reports to the CONTRACTING PARTIES. Additional procedures for notification and consultation were also included.

Mr. MACHADO (Brazil) referred to the difficulty expressed by his delegation when this matter was first discussed by the CONTRACTING PARTIES with the seemingly incompatible position taken by the United Kingdom in their references to dependent overseas territories in this matter, and in their treatment of the same territories when it was a question of a commodity agreement.

The United Kingdom was asking for a waiver to assist its dependent overseas territories, which would enable it to modify its tariff concessions in order to guarantee a market in the United Kingdom for these territories. This was, in the view of his Government, not a question of economic development for the territories but of securing the home market to them. Moreover, because of Commonwealth agreements, any tariff concessions which were granted to the territories would also have to be granted to Commonwealth countries. He requested a formal assurance that there would be no diversion of trade and that their legal obligations to the Commonwealth countries in this sphere would have no practical effect. Some time limit should be indicated in this waiver, and he remarked that his delegation would, at some time in the future, raise the question of time limits to be established for all past waivers.

The Brazilian delegation would abstain on the voting.

Mr. CRAWFORD (Australia) supported the waiver since no benefit was sought by the United Kingdom and contracting parties were protected by the procedures provided. Economic stability in the dependent areas was important and, if Article XVIII was provided for independent under-developed countries, the dependent overseas territories merited equally sympathetic treatment from the CONTRACTING PARTIES. As to diversion of trade, the risks were that any diversion which might take place would be to the detriment of other Commonwealth countries.

Mr. SEIDENFADEN (Denmark) said that he would vote in support of this waiver, having been impressed by the arguments and assurances of the United Kingdom, although logic called for his delegation to abstain on this decision as it had abstained on the other waiver to the United Kingdom. They would have liked to see a time limit fixed in the waiver, both because in principle they favoured the establishment of such time limits and because they were not convinced that this waiver was in the long-term interest of the colonial areas.

Mr. AZIZ AHMAD (Pakistan) said that his delegation would vote in favour of the decision proposed since they realized that many of the territories concerned might need certain additional facilities. He supported particularly the recognition contained in the last sentence of paragraph 6 of the report that the problems to be dealt with were transitional ones.

Mr. ENDERL, Chairman of the Working Party, said that no time limit had been inserted in the waiver because it was not felt that any could be fixed. The United Kingdom delegation had assured the Working Party that the problem was an existing one, but one that they hoped would change with time.

Mr. GARCIA OLDINI (Chile) opposed the waiver for the reasons he had given in the earlier discussion.

Mr. SEN (India) supported the waiver, viewing with sympathy the problems of these overseas territories and agreeing on their need for economic assistance, and the present rules of the Agreement were not applicable to them. The form of the waiver to be granted ensured that the rules of the GATT would be adequately safeguarded.

Mr. BROWN (United States) said that, because of the sympathy of his delegation with the problems of these territories and the nature and safeguards of the waiver, they would support the proposed decision.

The CONTRACTING PARTIES approved the report as a whole, subject to minor corrections in paragraphs 2, 6 and 17, and the French text of Annex 2. It was agreed that the report should be regarded as a basic document for the interpretation of the waiver itself.

The proposed decision concerning the special problems of the dependent overseas territories of the United Kingdom was adopted by 25 votes in favour to 3 against.

Mr. VARGAS GOMEZ (Cuba) and Mr. SVEC (Czechoslovakia) recorded that they had voted against the proposed waiver, Mr. Svec because he did not believe that the proposed decision would support the progress towards economic and political independence of the dependent overseas territories.

The representatives of Greece, Brazil and Indonesia recorded their abstentions.

Mr. COHEN (United Kingdom) thanked the CONTRACTING PARTIES for their action in this matter and appreciated the trust and sympathy they had thus shown. He was particularly grateful to the Chairman of the Working Party.

The CHAIRMAN thanked the Chairman of the Working Party and its members.

6. Report of Working Party 4 on the Waiver of the Provisions of Article XV:6 requested by Czechoslovakia (L/335)

Mr. SVEC (Czechoslovakia) stressed that it was not the purpose of the draft decision recommended by the Working Party, nor would it have that effect, to prejudice or threaten the rights or benefits of any contracting party under the General Agreement. The only purpose of the waiver was to cover a technical gap. Paragraph 6 of Article XV did not foresee a contracting party with an economic structure like Czechoslovakia, characterized by a complete state monopoly of foreign trade, and was thus not appropriate to his country. Although the problem was of a technical character, his Government attached importance to its solution, particularly in connection with the revision of the GATT, since it would be unfortunate if it had to consider accepting an Agreement of which it would be in breach from the outset.

The text of the draft decision followed the pattern of a similar decision taken by the CONTRACTING PARTIES as closely as was possible in view of the different underlying reasons. All the amendments put forward in the Working Party had been accepted by his delegation.

Mr. OLULOW (Uruguay) would vote in favour of the waiver for the same reason that it had already supported the waiver granted to New Zealand which dealt with a similar problem.

Mr. FINNMARK (Sweden) said that his delegation would abstain on this waiver, the application of which would give them certain difficulties. Their experience of the way that Czechoslovakia treated its obligations under existing payments agreements made them reluctant to support the proposed decision.

Mr. PORCEL (Cuba) recorded the abstention of his delegation.

The CONTRACTING PARTIES adopted, by 27 votes in favour to none against, the waiver of the provisions of Article XV:6 requested by Czechoslovakia.

The representatives of Brazil and the United States recorded their abstentions.

Mr. SVEC (Czechoslovakia) thanked the CONTRACTING PARTIES for their action and the Chairman and members of the Working Party.

The meeting adjourned at 7.15 p.m.