GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES
Twelfth Session

SUMMARY RECORD OF THE ELEVENTH MEETING

Held at the Palais des Nations, Geneva,
on Friday, 1 November 1957, at 2.30 p.m.

Chairman: Mr. L.K. JHA (India)

Subjects discussed:
1. European Coal and Steel Community Waiver
2. Expiration of the (Hardcore) Decision of 5 March 1955
3. Procedures for application of Article XXVI:5(c)
4. Entry into force of the Protocol Amending the Preamble and Parts II and III
5. Consular formalities
6. Marks of Origin
7. Nationality of Imported Goods

1. European Coal and Steel Community Waiver (L/686 and Add.1; L/715)

The CHAIRMAN called upon the spokesman for the Six Member States to present their Fifth Annual Report to the CONTRACTING PARTIES.

Mr. PHILIP (France) in the name of the Six Member States gave some brief comments on the Report, which covered the period from 1 September 1956 to 31 August 1957. One point deserved particular attention. As provided in paragraph 15 of the Convention on transitional arrangements the Member States would, on 10 February 1958, harmonize their duties at the level of the Benelux tariff increased by two points. The texts concerning this harmonization had been submitted to the Council of Ministers of the Community which would probably take a decision during the month of November. The proposed measures, which were to lead to a general reduction in the average level of the duties, were in conformity with paragraph 4 of the Decision of the CONTRACTING PARTIES of 10 November 1952. The full implementation of the Treaty, at the date originally scheduled, could be considered as an encouraging sign of the resolution of the Member States also to achieve the objectives of the European Economic Community within the time-limits laid down in that Treaty.

Mr. HAGEN (Sweden) said that his delegation had studied the Fifth Annual Report submitted by the Member States and the supplementary note by the Executive Secretary with great interest, and looked forward to a

detailed discussion in the Working Party. He presumed that the Sixth Annual Report would contain some final analysis of the way in which the provisions of the Waiver had been fulfilled. If the CONTRACTING PARTIES were satisfied that these provisions had been met no further report would be required. However, it seemed desirable, particularly during the transitional period of the European Economic Community, that the discussions on trade in coal and steel between the European Coal and Steel Community and other contracting parties could continue on a voluntary basis. The secretariat, in co-operation with the High Authority might continue to provide the contracting parties with documentation of a kind similar to that contained in the annual reports. This question could usually be considered during the following year.

Questions concerning prices of coal and steel would no doubt be examined in the Working Party. His delegation would also have queries on restrictions on export of scrap and hoped to receive more positive answers than at previous sessions. It also wished to be informed about the duties to be applied. Mr. André Philip had said that the Treaty would be fully implemented by the end of the transitional period and the duties applied by the Member States harmonized. If there were any exceptions from this rule, the CONTRACTING PARTIES would have to be advised. Furthermore, if the term "harmonization of duties" was not to be interpreted as meaning that the same customs duties would be applied by the Member States, the Member States, would have to explain how this could be considered to conform to the terms of the Waiver and to the provisions of the General Agreement.

Mr. VALLADAO (Brazil) wondered whether the institution of the European Economic Community would not necessitate a revision of the arrangements which the CONTRACTING PARTIES had made to deal with the questions arising from the European Coal and Steel Community. It would indeed not be reasonable entirely to separate the consideration of problems arising from trade in coal and steel from the discussions on the European Economic Community.

Mr. CHRISTENSEN (Denmark) said that the Fifth Annual Report was particularly interesting because it was the last full report before the end of the transitional period and could therefore serve as a basis for an overall review of the activities of the European Coal and Steel Community in the preceding five years. His Government was still very concerned about the pricing policies of the producers in the Community. It had repeatedly questioned whether these pricing policies could be considered to comply with the provisions of the Treaty itself and those of the Waiver, and had stressed the importance of the undertaking of the Member States to keep export prices within equitable limits, i.e. equitable in relation to the prices within the Community.

In the case of steel these pricing problems stemmed from two main causes : export prices were fixed by a cartel of producers and cost of production and prices between the Member States themselves had still not been harmonized as could be expected in a genuine common market.

A practical consequence of the cartel was that minimum prices were fixed for exports from the Community as a whole, this mostly at a level well above internal prices. Exports were seldom effected at prices lower than these minima but very often at higher prices. This dual pricing system had caused his Government to follow price developments very closely and to communicate the results of its investigations to the High Authority and to the CONTRACTING PARTIES. The results for 1956-57 were annexed to the Report prepared by the secretariat. After having increased during the previous year these price differences seemed to have reached an all-time high in the first half of 1957. Contrary to the assumptions on which the Waiver had been granted, these price differentials now seemed of a lasting nature. His Government still hoped that these problems would be dealt with although it knew from previous discussions that the High Authority maintained that its powers for interfering with prices were limited. Lately there seemed to have been some weakening of the steel market. Although one could therefore reasonably expect reductions in the export prices for steel, the minimum prices had not yet been lowered. For merchant bars - the item in which the market had especially weakened - a quota system had apparently been established with a view to avoiding decreases in prices. In view of the promptness with which upward adjustments were made when the market was strengthened and the argument so often put forward that export prices could be expected to be lower than internal prices in a recession period, it seemed only fair to lower export prices.

Statistical information on coke supplied by his delegation and annexed to the Report, listed the prices paid by Denmark for purchases in Germany, which was Denmarks main supplier. These prices were approximately 46 per cent higher than those quoted within the Community. Denmark therefore seemed to carry a considerable part of the costs of the more expensive American coal. In conclusion, Mr. Christensen stressed that these dual pricing systems would be especially harmful to outside countries in a recession period. If all trade barriers in Western Europe were to be abolished in the future, access on equal terms to coal and steel was of fundamental importance.

Mr. MATHUR (India) said that his Government was also deeply concerned with the pricing policies of the producers of the Community. On the basis of trends in prices it seemed that prices charged for exports had on the whole been substantially higher than those quoted within the Community, and had furthermore varied considerably according to destination. His delegation had already stated that prices charged to Indian buyers tended to be appreciably higher than those charged to certain other countries. It had been answered that Indian purchases were mostly made from agents and not directly from producers. However, notwithstanding the fact that the large Indian consumers were increasingly buying from producers directly, it seemed that they were still paying higher prices than those quoted for exports to other destinations. If there were complete competition between sellers these price differentials would be less likely to occur. In this matter of prices a special responsibility devolved on the High Authority.

Mr. STANDENAT (Austria) commended the Report but wished to make one reservation concerning its contents. The Report should not simply review past events but also discuss future developments in the Community. For example, although the contracting parties, exporters of steel products, attached a certain interest to the harmonized tariff , which would come into force soon, it was hardly mentioned in the Report. Mr Standenat feared that if the Council of Ministers accepted the tariff during the month of November, as explained by Mr. Philip, it would be too late to consider it during the present Session, and he therefore wished to know whether the Member States were prepared to discuss the tariff before a final decision had been taken. He supported the proposal by the Swedish representative. The suggestion made by the representative of Brazil to the effect of studying the status of the Community and its relations with the European Economic Community deserved careful attention. His delegation would have further comments in the Working Party.

Mr. PHILIP (France) said that the Council of Ministers would probably take a decision on 19 November. The Member States would be prepared to discuss the tariff as soon as it had been approved.

Mr. SVEC (Czechoslovakia) stated that the trade in coal and steel between his country and the Member States of the Community was substantial and had recently been on the increase. His Government had therefore a legitimate concern that equitable pricing policies should be followed by the producers of the Community which would ensure fair and non-discriminatory treatment for all countries. This did not seem to be the case at present. His delegation had supplied the secretariat with information concerning inter alia tin-sheets, for which the cartel now operating in the Community had established three different export prices. Exports of this product to Czechoslovakia and Latin America were charged $7 more per ton. Similar pricing practices existed for other steel products. He wished to discuss these problems in the Working Party.

The CONTRACTING PARTIES agreed to refer the Report to a Working Party, with the following terms of reference and membership.

Terms of reference

To examine, in the light of the statements made at the plenary meeting of 1 November 1957 and all other relevant data, the Fifth Annual Report of the Member States of the European Coal and Steel Community, and to report thereon to the CONTRACTING PARTIES.

Chairman: Mr. Jockel (Australia)

Members

Austria	Greece	Netherlands
Belgium	India	Sweden
Czechoslovakia	Italy	Turkey
Denmark	Japan	United Kingdom
France	Luxemburg	United States
Germany	Malaya	

2. The Expiration of the (Hardcore) Decision of 5 March 1955 (L/719 and W.12/12)

The CHAIRMAN referred to the discussion held at a previous meeting (SR.12/3) when the representative of Austria suggested that the time-limit of 31 December 1957 for the submission of applications under the "hardcore" Decision of 5 March 1955 should be extended to allow contracting parties through a further period to seek the concurrence of the CONTRACTING PARTIES in the continued maintenance of import restrictions to safeguard their external financial position and balance of payments (L/719). He informed the meeting that he had consulted with a number of delegations that had participated in the previous discussion and had prepared a draft Decision (W.12/12) for consideration by the CONTRACTING PARTIES. The effect of this Decision would be to extend the time-limit for the submission of requests by one year. It also provided for this item to be on the Agenda of the Thirteenth Session.

Mr. CHRISTENSEN (Denmark) recalled that when the Decision of 5 March 1955 was drafted it represented at the time a compromise between the views of various contracting parties which wished to maintain quantitative restrictions after their removal for balance-of-payments reasons, and those desirous of a stricter application of the General Agreement. Any change in these plans would give rise to great concern to his delegation. Although he recognized that progress in the abolition of quantitative restrictions, particularly in the agricultural sector, had not been as rapid as anticipated, he pointed out that this factor should not dictate an automatic extension of the time-limit. The present consultations programme under Article XII had revealed the existence of many alternative measures for the rectification of "hardcore" problems, even for those countries still experiencing balance-of-payments difficulties. There was a risk, however, that these possibilities would not be taken into account if there were no firm date for the expiry of the Decision of 5 March 1955. It was only with reluctance, therefore, that his delegation agreed to an extension of the time-limit for a further year. He expressed the view that further extensions should only be made if the five-year period for the application of the Waiver were correspondingly reduced.

Mr. LATIMER (Canada) shared the concern expressed by the representative for Denmark and stated that his delegation was also reluctant to agree to an extension of the time-limit. He emphasized that any such extension should in no way be interpreted as meaning that there would be automatic prolongations of the Decision of 5 March 1955 as long as balance-of-payments difficulties remained and contracting parties therefore should sustain their efforts to dismantle the remaining quantitative restrictions.

Miss SEAMAN (United Kingdom) said that it was clearly in the minds of those who drafted the Decision of 5 March 1955 that the time for seeking recourse to its provisions was when a country was nearing the end of its balance-of-payments difficulties and about to leave the shelter of Article XII. A rather optimistic atmosphere had prevailed at that time and an early dismantling of quantitative restrictions under Article XII was expected. It was a matter of regret that this had not yet been possible for many countries, and accordingly they had not yet

submitted their requests to the CONTRACTING PARTIES for concurrences under the Waiver. In the light of these considerations, therefore, it seemed that the proposed extension for one year was justified. It would be left to the CONTRACTING PARTIES to decide at the Thirteenth Session whether the circumstances giving rise to the present extension continued to obtain. As stated in the course of the recently concluded balance-of-payments consultations with the United Kingdom, her Government was one of those which might eventually have to seek recourse to the provisions of the Waiver. If this action were taken, it would be done on the eve of leaving the shelter of Article XII. The postponement of the invocation until the appropriate time would make it possible to reduce to a minimum the number of items which might ultimately be covered by the Waiver.

Mr. ADAIR (United States) recalled that his delegation had declared its agreement to an extension of the time-limit provided it was of limited duration. The proposed extension for one year met this criterion and therefore he would support it; however, in doing so he underlined the desirability of countries wishing to invoke the Waiver to submit their requests as soon as possible.

Mr. HOOGWATER (Kingdom of the Netherlands) associated himself with the remarks of the representative of Canada and the United States, and in addition pointed to the serious problems that would arise if the time-limit were to be exclusively related to prevailing circumstances.

Mr. MONSERRAT (Cuba) recalled the concern with which the Cuban delegation had viewed the granting of the Waiver at the Ninth Session. He expressed the view that all the implications of the proposed extension of the time-limit could not be adequately elucidated in a plenary meeting. His delegation would have preferred, therefore, that the proposal be referred to a working party for more detailed examination particularly with reference to the implications for a review of the time-limit at the Thirteenth Session. However, if the proposed extension agreed to by the CONTRACTING PARTIES it should be only on the firm understanding that no further extensions would be made in the future. A more acceptable solution to his delegation would be to reduce correspondingly the maximum five-year period for which the Waiver was applicable by the same period as the extended time-limit; this he thought would bring more pressure to bear on those contracting parties which were not perhaps taking all measures possible to dismantle their restrictions.

Mr. PARBONI (Italy) said that his delegation was aware of the problems which led to the need for extending the time-limit and was prepared to support the draft Decision submitted by the Chairman.

Mr. STANDENAT (Austria) said that although the text of the draft Decision was acceptable to his delegation it did not entirely correspond to their expectations. He felt that for the majority of countries the economic situation would not be changed over a period of one year and consequently the CONTRACTING PARTIES would find themselves next year in the same situation. Nevertheless, in this connexion, there was some compensation in the draft Decision itself which provided for a review of the time-limit at the Thirteenth Session.

Mr. HAGEN (Sweden) supported the draft Decision and pointed out that it would not be wise to attach an understanding that further prolongations could not be considered.

The CHAIRMAN then submitted the draft Decision to a vote.

The CONTRACTING PARTIES approved the Decision by a vote of thirty-one in favour, one against (Cuba) and two abstentions (Denmark, Dominican Republic).

3. Procedures for application of Article XXVI:5(c) (L/618 and W12/13)

The CHAIRMAN recalled that at their Third Meeting (SR.12/3) the CONTRACTING PARTIES had appointed a small working group to revise the procedural arrangements proposed by the Executive Secretary in document L/618 in the light of the views expressed at that meeting. The working group had now prepared certain procedural arrangements in the form of a Recommendation for adoption by the CONTRACTING PARTIES.

The CONTRACTING PARTIES adopted the Recommendation.

Mr. ADAIR (United States) welcoming the Recommendation by the CONTRACTING PARTIES said that his Government found certain situations confusing in that it had not been known for some years whether or not the General Agreement continued to apply between contracting parties and certain territories which had acquired full autonomy in the conduct of their external commercial relations. The situation was particularly awkward in respect of territories which had acquired complete independence so that there was no contracting party in a position to represent them. His delegation proposed therefore that the terms of the Recommendation be now applied in the case of Tunisia and the States formed out of the former French Indo-China. It was understood that Viet Nam had already taken action so inconsistent with the General Agreement that the provisions of the Recommendation would hardly be applicable to that country. These provisions, however, could probably be applied to Cambodia, Laos and Tunisia which, as far as was known, were giving de facto effect to the provisions of the General Agreement. He proposed that the CONTRACTING PARTIES instruct the Executive Secretary to undertake promptly such consultations as he considered appropriate with respect to the possible sponsorship of these countries under Article XXVI:5(c) and report back to them before the end of the present Session. His Government hoped that the CONTRACTING PARTIES might then set a time-limit e.g. about the middle of the Thirteenth Session, until which the General Agreement would continue to be applied de facto to these countries, provided that they themselves continued de facto to apply the General Agreement to contracting parties.

The CHAIRMAN proposed that the CONTRACTING PARTIES request the Executive Secretary to take note of the statement by the representative of the United States and to formulate proposals before the end of the Session after consultation with the delegations concerned.

This was approved.

4. Entry into force of the Protocol Amending the Preamble and Parts II and III (L/717)

The CHAIRMAN referred to the note by the Executive Secretary which outlined the principal consequences of the entry into force of the above Protocol (L/717). The note drew attention to those amendments to the text of the GATT, which required attention by the CONTRACTING PARTIES, or which affected the administration of the General Agreement, and should therefore receive attention at this Session. The Chairman pointed out that the action required under the revised Articles XII and XVIII had been referred to the Working Party on Balance of Payments and the questions arising in connexion with Article XXVIII (Revised) would be discussed under another item on the agenda. It only remained, therefore, for Articles XVI and XVII to be dealt with at this stage.

Article XVI

The Chairman first referred to two questions which arose from the revised Article XVI - Subsidies. Under paragraph 4 of the new Article and the related Note in Annex H, contracting parties to which the new Article applies were required to seek, before the end of 1957, to reach agreement to abolish export subsidies on products other than on primary products as from 1 January 1958 or, failing this, to extend the standstill on the scope of such subsidies until the date by which they expected they could reach agreement. Further, under paragraph 5 of the revised Article the CONTRACTING PARTIES were required to review from time to time the operation of the provisions of Article XVI.

At the request of the representative of the United States, supported by the representatives of Belgium, the Kingdom of the Netherlands and the United Kingdom, the CONTRACTING PARTIES agreed to defer discussion on these points until later in the Session.

Article XVII

The Chairman then referred to action required under the revised Article XVII - State-trading Enterprises. Under paragraph 4(a) of the revised Article contracting parties to which the new Article applied were required to notify the CONTRACTING PARTIES of State-trading activities. The Executive Secretary had suggested that the first notifications should be submitted by 1 February 1958.

In response to an enquiry by Mr. LATIMER (Canada) the CHAIRMAN stated that contracting parties who had not signed the Protocol could also be invited to submit notifications.

The CONTRACTING PARTIES agreed that notifications under paragraph 4(a) of Article XVII (Revised) should be submitted by 1 February 1958 and instructed the Executive Secretary to prepare a draft Decision for approval. It was further agreed that the Decision invite contracting parties for which the revised Article XVII was not yet applicable nevertheless to submit notifications.

5. Consular Formalities (L/631, L/721, L/727)

The CHAIRMAN recalled the Decision of 17 November 1956 which invited contracting parties which applied consular formalities to report on progress made towards their abolition in accordance with the recommendations of the CONTRACTING PARTIES and which provided for a review of the question at this Session. Reports received from contracting parties during the past year had been distributed (L/721) as had a Recommendation adopted by the International Chamber of Commerce at its Congress in May 1957 (L/631). In view of the latter proposals the secretariat had prepared a draft Recommendation for the consideration of the CONTRACTING PARTIES (L/721).

Mr. HOWIE (Canada) referred to the reports that had been submitted by contracting parties. While appreciative of the abolition of consular formalities by Ceylon and France he recalled that at the Eleventh Session contracting parties maintaining consular formalities were invited to report on progress made towards their abolition. Only six out of the sixteen contracting parties concerned had reported. He hoped that during the course of the Session the remainder would indicate their intentions in this regard.

Mr. MACHADO (Brazil) referred to the statement by his delegation on this subject (L/727). He supported the remarks of the representative of Canada and stated that, in spite of the recent overhaul of the Brazilian Tariff, it had still been necessary to maintain some consular formalities as a control measure over the prices of imported goods; further, the income for the State resulting therefrom could not be dispensed with at the present time.

Mr. MONSERRAT (Cuba) recalled the statement made by his delegation at the Eleventh Session and reported that the situation as stated then was unchanged. Nevertheless, his Government was at present engaged in a revision of the Customs Tariff Legislation and he expressed the hope that some modifications could be made in the near future.

Mr. MERINO (Chile) referred to the detailed statement his delegation had made on this subject at the Ninth Session explaining the reasons why it could not endorse the Recommendation drawn up at that Session. Unfortunately the circumstances were unchanged and the Chilean delegation found itself in the same position with respect to the present draft Recommendation.

Miss SEAMAN (United Kingdom) suggested that a Preamble be added to the draft Recommendation re-affirming the two previous Recommendations on this subject of 7 November 1952 and 17 November 1956. This would avoid the unfortunate precedent of the CONTRACTING PARTIES abandoning Recommendations not fully complied with.

The CHAIRMAN, referring to the point raised by the representative of Canada, invited those contracting parties which had not yet reported on progress made in the abolition of consular formalities to indicate their position to the secretariat during the course of the Session. He requested contracting parties having any

problems with the text of the draft Recommendation to refer them to the secretariat. At a later stage he would convene those delegations interested in order to review the text in the light of any points made. The draft Recommendation could then be presented to the CONTRACTING PARTIES.

This procedure was agreed.

6. Marks of Origin (L/595)

The CHAIRMAN recalled that at the Eleventh Session a Working Party had examined proposals submitted by the International Chamber of Commerce which outlined a number of guiding principles for consideration as a basis for an international arrangement regarding marks of origin. It was the hope of the ICC that the CONTRACTING PARTIES would agree on a Recommendation for the simplification of marking requirements, for more uniform application of existing provisions and for the abolition of regulations which might constitute disguised protectionism. The Working Party had considered that a number of these questions required further study and clarification and, therefore, had decided not to draft a Recommendation at that time, but had recommended instead that the question be referred to the Twelfth Session for further study in the hope that it might then be possible to reach agreement on the text of a Recommendation. The conclusions of the Working Party on each of the proposals submitted by the Chamber were set out in its Report (L/595).

In reply to a question by Mr. HOWIE (Canada) the DEPUTY EXECUTIVE SECRETARY said that an enquiry had been addressed to the ICC on the points that had given rise to doubt at the Eleventh Session and a reply was expected in the near future.

The CHAIRMAN said that examination of this item could be deferred to later in the Session when delegations would have had an opportunity to re-examine the Working Party's Report of the Eleventh Session.

This was agreed.

7. Nationality of Imported Goods

The CHAIRMAN stated that this item had been placed on the agenda at the request of the German delegation.

Mr. MARTINSTETTER (Federal Republic of Germany) said that at present this question was now being considered by several countries and it would be useful, therefore, to defer examination of this item until the Thirteenth Session when the results of this examination would be known.

Mr. MACHADO (Brazil) expressed his delegation's interest in this subject but nevertheless agreed to its consideration being deferred.

The CONTRACTING PARTIES agreed to postpone consideration of this item until the Thirteenth Session.

The meeting adjourned at 4.40 p.m.