

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Page 117

CONTRACTING PARTIES  
Twelfth Session

## SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at the Palais des Nations, Geneva,  
on Monday, 18 November 1957, at 2.30 p.m.

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

- Subjects discussed:
1. European Free-Trade Area Proposals
  2. Plans for Tariff Reduction
  3. Franco-German Treaty on the Saar
  4. Article XVII - Notifications
  5. Status of Protocols and OTC
  6. Definitive Application of the Agreement
  7. New Zealand Schedule
  8. Trade Restrictions on Orthopaedic Appliances

### 1. European Free-Trade Area Proposals (L/745)

The CHAIRMAN recalled that at the Eleventh Session the Intersessional Committee had been instructed to follow developments in the negotiations for a free-trade area associating the other members of the Organization for European Economic Co-operation with the Member States of the European Economic Community. The Secretary-General of the OEEC had kept the Intersessional Committee informed of the progress of the negotiations, and in his latest communication had transmitted the texts of two Resolutions adopted by the Council of the Organization on 17 October. By these Resolutions the Council had appointed an inter-governmental committee at ministerial level to study the establishment of a European free-trade area.

Mr. J.T. SMITH (Australia) said that his Government was pleased to observe that the negotiations to form a free-trade area in Europe were progressing. Indeed, a successful free-trade area among a large group of the world's major trading countries could, if carried out in accordance with the spirit of Article XXIV, substantially contribute to the removal of barriers to world trade. At the outset of such complex negotiations, it might be profitable to make some comments in the interest of all because Australia, for one, considered that any arrangements for a free-trade area should be scrutinized in the light of the provisions of the General Agreement as carefully as was the Rome Treaty. The structure

and approach of the free-trade area would necessarily be influenced by the provisions of the Rome Treaty, itself the basis for a significant regional grouping. The European free-trade area, however, possessed several additional elements; the proposed new regional group was of greater magnitude than the European Economic Community and, further, so many countries substantially depended on the countries of this area for the sale of foodstuffs and raw materials. Again, the free-trade area appeared likely to comprise countries in widely differing stages of economic development and would not provide for the extensive economic integration envisaged in the Rome Treaty.

The negotiators of the free-trade area would have the benefit of the views and, indeed, the apprehensions expressed by many contracting parties outside Europe regarding the operation of the Rome Treaty. His Government had no doubt that, in this special regional arrangement, the necessity to safeguard the legitimate interests of third countries would be borne in mind. In propounding these views his delegation did not wish to create the impression that it was not conscious of the great complexity and, for policy and technical reasons, of the great urgency of these negotiations.

As so many contracting parties outside Europe were primarily concerned with agricultural products, it was perhaps in this field that these comments had the greatest applicability. They were reinforced by the determination of the Council of the OEEC "to reach agreement on methods of further co-operation between all Member countries in agricultural matters with a view to ensuring the expansion of trade in agricultural products". It was hoped that the contracting parties participating in the free-trade area negotiations would find it possible to ensure that their proposals would not portend damage to the interests of third countries but would be demonstrably designed to enable these countries to share in the benefits of expanding trade. In this connexion his delegation noted the decision of the Council of the OEEC to empower the Ministerial Committee to invite other international organizations to be represented at its meeting. His delegation thought that the objectives referred to could be greatly furthered if, in developing their plans, the participants could confer with the CONTRACTING PARTIES in such a way that those plans might be modified if necessary to meet reasonable proposals of other contracting parties.

Mr. VALLADAO (Brazil) associated himself with the views of the Australian delegation. The current discussions on the compatibility of the Rome Treaty with the General Agreement could furnish the countries participating in the free-trade area negotiations reminders of their particular obligations set forth in Article XXIV and also of their general obligations under the GATT. Owing to its scope the proposed free-trade area could not be compared with similar schemes which had been submitted in the past to the CONTRACTING PARTIES. If improperly conceived, the European free-trade area could disrupt the balance of rights and obligations of individual contracting parties under the General Agreement. He hoped that the plans would be submitted to the CONTRACTING PARTIES to permit them to ascertain in time whether they conformed to the provisions of the General Agreement so that the Member countries could take account of the views of the CONTRACTING PARTIES.

Mr. KAWASAKI (Japan), in supporting the views of the representatives of Australia and Brazil expressed the hope that full and careful scrutiny would be given to the project so that the interests of free countries could be adequately safeguarded.

Mr. WARREN (Canada) said that his Government viewed with sympathy the principles and objectives of the proposed formation of a free-trade area in Europe as it did in the case of the Rome Treaty. Such a free-trade area could, if conceived in a liberal and outward-looking manner, have a considerable beneficial influence on world trade. The views of his Government on the free-trade area convention would depend on its careful examination in GATT when it became available.

Mr. PRIESTER (Dominican Republic) shared the views of the previous speakers. His delegation would not go so far as to declare that it looked with sympathy on the proposal for the free-trade area because it did not yet know what it would consist of and what provisions it would contain for trade in products which were of interest to countries in process of development. The CONTRACTING PARTIES were entitled to examine carefully the contents of these proposals because they introduced a new element of major importance in the original balance of rights and obligations on which GATT had been founded.

Mr. JARDINE (United Kingdom) stated that his Government would certainly have full regard to its obligations under the General Agreement in negotiating a free-trade area convention in Paris, and could reasonably assume that the other parties to the negotiations would likewise have regard to their obligations. He reminded the CONTRACTING PARTIES that his Minister had stated at the Ministerial Meeting that when the convention would be brought before the CONTRACTING PARTIES, the United Kingdom would expect the convention to be just as carefully examined as the Treaty of Rome and to pass the same tests. As regards the more specific suggestion of keeping in contact with the negotiators, he pointed out that his delegation had supported the proposal that a GATT observer attend the negotiations. However, the proposal had not been accepted. If the CONTRACTING PARTIES could work out some proposal it should be submitted to the negotiating countries in Paris, for their consideration. It was difficult to see what workable proposal could be elaborated to deal with the situation.

Mr. ADAIR (United States) said that his Government welcomed the efforts to establish a free-trade area in Europe because it believed that the scheme was most likely to result in a reduction of barriers to trade in Europe and to an expansion of world trade if carried out in the framework of Article XXIV. It was hoped that in seeking solutions to the problems before them the negotiating countries would take the interests of third countries into account and ensure that the scheme would in no way impede further progress towards currency convertibility and the widest possible system of multilateral trade and payments.

Mr. KLEIN (Federal Republic of Germany) emphasized the great interest which the Federal Republic attached to the formation of a free-trade area, which would help to stabilize and improve economic conditions in Europe and

contribute to the development of trade with third countries. He had no doubt that the same spirit which had animated his Government and the governments of the other Member States in the drafting of the Rome Treaty would also be present in the free-trade area negotiations. The German delegation believed that appropriate provisions would be found to safeguard the interests of third countries and to ensure respect for international obligations.

Mr. OLDINI (Chile) believed that the CONTRACTING PARTIES ought to have confidence in the countries negotiating the free-trade area. The debate on the Rome Treaty had revealed a tendency to overlook, among the obligations to be met under Article XXIV, those laid down in paragraph 4. The contracting parties which proposed to become parties to the free-trade area should observe the letter and spirit of the provisions contained in this paragraph.

Mr. PRESS (New Zealand) pointed out that if third countries had been given an occasion for discussing beforehand the proposals for the institution of a customs union, the task of the CONTRACTING PARTIES would have been greatly simplified. He hoped that the wider community of countries in the free-trade area would appreciate the desirability of providing non-participating countries with an opportunity for prior consultations and discussions.

The CHAIRMAN suggested that the CONTRACTING PARTIES might instruct the Intersessional Committee to follow developments and to report, when considered appropriate, to the CONTRACTING PARTIES. He proposed that a draft of the mandate to be given to the Committee be prepared by the Australian delegation for consideration at a subsequent meeting.

The CONTRACTING PARTIES approved these proposals.

## 2. Plans for Tariff Reduction

Mr. CHRISTENSEN (Denmark) recalled that after the Torquay tariff negotiations there had been a widespread feeling that there was little likelihood that any further significant reduction in general tariff levels and in existing tariff disparities could be achieved bilaterally, and the 1956 negotiations had confirmed that view and had shown the need for a new approach. A majority of contracting parties had therefore concluded that there should be multilateral action in the form of an automatic tariff reduction plan; that view had been shared by some of the most important trading countries in Europe, but unfortunately some others had not been ready to participate. The CONTRACTING PARTIES were currently considering the possible effects of the abolition of tariffs and other trade restrictions within the European Economic Community and the projected free-trade area, and consideration of those problems might have been facilitated if GATT had already embarked on a programme of general tariff reduction and elimination of tariff disparities. He realized that the time

was not yet ripe for GATT to make a new start in the tariff field; nevertheless, effective procedures for lowering tariffs offered opportunities for solving many existing problems, and the CONTRACTING PARTIES should continue to concern themselves with the possible adoption of a multilateral approach to tariff questions. In view of the heavy programme of work in the coming year, and also the fact that technical studies might best be postponed until a sufficient number of contracting parties were ready to co-operate fully in seeking a solution to the problem, his Government would only ask that the matter be kept on the agenda of the CONTRACTING PARTIES.

Mr. KOLLBERG (Sweden) and Mr. CAPPELEN (Norway) supported the statement by the Danish representative.

The CHAIRMAN said that the item would be placed on the agenda for the Thirteenth Session.

3. Franco-German Treaty on the Saar (W.12/26)

The CHAIRMAN invited the CONTRACTING PARTIES to consider the draft Decision which had been prepared by the secretariat at their request (SR.12/14).

Mr. CAPPELEN (Norway) suggested that as the Decision would be valid for a period of some twelve years, it might be premature to state now, as in the draft, that the arrangements proposed were not likely to damage the interests of other contracting parties.

Mr. ADAIR (United States) said he was in general agreement with the draft, but he thought it should include provision for future consultation and for an annual report, in accordance with the procedures which had been adopted by the CONTRACTING PARTIES on 1 November 1956.

Mr. DONNE (France) and Mr. KLEIN (Federal Republic of Germany) indicated that the draft Decision with the amendments proposed was acceptable to them.

The CHAIRMAN asked the secretariat to prepare a revised draft for consideration at a later meeting.

4. Notifications under Article XVII (W.12/20)

The CHAIRMAN submitted for the approval of the CONTRACTING PARTIES the draft Decision which the Executive Secretary had prepared at their request (SR.12/11).

Mr. ADAIR (United States), while in general agreement with the proposed draft, thought it advisable to provide for a review of the Decision after one year. A revision of the Decision might be found desirable in order to ensure that the reporting on State-trading activities would provide all the information required to make the annual review effective.

THE CONTRACTING PARTIES approved the Decision while noting that it might be desirable to make some slight amendments to take account of the comments by the representative of the United States.

5. Status of Protocols and OTC (L/682/Rev.1)  
Protocols of Amendment

The CHAIRMAN recalled that at an earlier meeting the closing date for signature of the three amendment Protocols had been extended until the end of the session. He emphasized the desirability of having these Protocols accepted by all contracting parties as early as possible in order that the amended text of the Agreement could enter into force for all contracting parties.

Mr. MACHADO (Brazil) explained that rather than sign these Protocols and make the signature conditional upon ratification by the Brazilian Congress, his Government had preferred to wait for authorization. His delegation felt it extremely desirable for the CONTRACTING PARTIES to take steps to ensure prompt acceptance of these Protocols by all contracting parties. Such action could be entrusted to the Intersessional Committee and should be devised so as to enable governments to request their legislative powers for a speedy acceptance.

Mr. OLDINI (Chile) said that, in accordance with the Resolution passed at the Eleventh Session, his Government had sent to Parliament an urgent request to ratify the three Protocols under consideration. Recently the Government had reiterated this request. He hoped that this time action would be taken.

The CHAIRMAN drew attention to paragraph 2 of Article XXX (revised) which provided for measures to deal with a situation in which an important amendment entered into force but was not accepted by all contracting parties. However, as so many signatures were still lacking, he suggested that recourse to these provisions might be deferred and that the Intersessional Committee be instructed to advise individual contracting parties of their position some time before the Thirteenth Session. In the meantime the CONTRACTING PARTIES might extend the closing date for signature for another year, until two weeks after the opening of the Thirteenth Session. A draft resolution could be prepared extending the date and re-emphasizing the urgency of the matter and be brought before the CONTRACTING PARTIES for adoption at a later meeting.

The Chairman's proposals were approved.

The representative of Chile enquired about the status of the amendments to Article XXV provided for in the Protocol of Organizational Amendments. In reply the CHAIRMAN referred to paragraph 7(a) of the Protocol of Organizational Amendments which would not become operative until the Agreement on the Organization for Trade Co-operation entered into force.

Agreement on the Organization for Trade Co-operation

The CHAIRMAN pointed out that the Agreement on the establishment of an Organization for Trade Co-operation had been accepted by only nineteen

contracting parties. He proposed to instruct the Executive Secretary to prepare a draft resolution urging contracting parties which had not yet signed the Agreement to do so in the near future. The Intersessional Committee might take action similar to that for the Protocols of Amendment. The situation could be reviewed again at the Thirteenth Session if by that time the Agreement had not entered into force.

That was agreed.

6. Definitive Application of the Agreement (Resolution of 7 March 1955)

The EXECUTIVE SECRETARY said that an important point was not mentioned in the document relating to the status of protocols. During the Review Session a procedure had been devised to help contracting parties to pass from the status of provisional application of the General Agreement under the Protocol of Provisional Application to that of definitive acceptance pursuant to Article XXVI. It had been agreed by a unanimous Resolution that a definitive acceptance pursuant to Article XXVI would be considered valid even if accompanied by a reservation, in respect of existing legislation, which was in all respects the same as the reservation relating to existing legislation contained in the Protocol of Provisional Application. One of the reasons for adopting this procedure was to strengthen the General Agreement with a view to making it more effective in the attainment of its objectives. It was the general feeling that over a number of years the General Agreement had proved a useful instrument and should therefore be placed on a permanent and definitive basis. From a practical point of view the definitive acceptance might not make much difference to the position of individual contracting parties and therefore to that of the General Agreement, because the reservation contained the same amount of leeway for existing legislation as that provided in the Protocol of Provisional Application. The only immediate practical effect was that the period of notice of withdrawal from the General Agreement was extended from sixty days to six months. This did not appear to be unduly onerous. On the other hand, the definitive acceptance of the Agreement would have a considerable psychological value. One of the major results of the Review Session was the recognition by the contracting parties that a provisional and makeshift Agreement had been carefully examined, reviewed, amended and affirmed and that in various ways this fact ought to be made known to public opinion and interested circles. The proposal to establish a permanent organization also proceeded from the concern to give the Agreement stability. Although considerable support had been found for this proposal in various parts of the world it had, for reasons generally appreciated, not been consummated. In the meantime, the other step intended to stabilize and reaffirm the General Agreement, i.e. definitive acceptance, had also not been realized. No doubt the judgment of many contracting parties was that the definitive acceptance pursuant to Article XXVI should be made to coincide with the entry into force of the OTC. If indeed the hopes for the establishment of the OTC had been well-founded, or if today there were an early prospect that they would prove well-founded, no one would quarrel with that judgment. On the other hand, so

long as the OTC was not ratified, it might be advisable to give the General Agreement appropriate stability and permanence by taking the other step. As this subject was somewhat separate from the status of protocols and did not automatically come up for consideration at annual sessions, it tended to be overlooked.

Mr. MACHADO (Brazil) thought that the Intersessional Committee should be instructed to draw the attention of the governments to this situation so that the postponement of the notification of the OTC should not also defer the definitive acceptance of the Agreement.

#### 7. New Zealand Schedule (L/735)

The CHAIRMAN invited the New Zealand representative to present his Government's request concerning arrangements for negotiations under Article XXVIII.

Mr. PRESS (New Zealand) said that his Government had raised the matter with considerable reluctance, and only because it had failed to find an alternative solution to the problem set out in document L/735. The Board of Trade had for two years been engaged in a review of the customs tariff and customs law, but owing to the complexity of the task, it had not been possible to complete the review as rapidly as had been hoped. Once that was done, the Board's recommendations, which would include an expanded and completely new tariff nomenclature, changes in customs law and possibly other related matters, would be carefully considered by the Government and the latter had undertaken to place the results of the tariff review before Parliament during the 1958 session, normally held in the period June-October. Under New Zealand procedures, a new tariff was brought into force immediately by a Resolution of the Committee of Ways and Means without prior announcement, discussion or disclosure, and subsequently, during the same parliamentary session, a Bill ratifying the Resolution was introduced and substantive debate on the tariff took place during consideration of that Bill.

It was certain that the Government's consideration of the Board's report would not be completed until well into 1958, and there would not be time to complete GATT negotiations in addition to fulfilling the New Zealand legislative procedures before the end of the parliamentary session. On the other hand, it was his Government's firm intention to go through the process of negotiation and satisfactory compensation; Article XXVIII would be complied with in every way except timing. The procedure which his Government proposed to follow was described in document L/735. The number of items to be withdrawn or modified was not expected to represent a large proportion of the schedule, for there was no question of a general increase, and in introducing the new tariff, compensation would be provided with immediate effect and the contracting parties would of course receive full notification. Thereafter his Government was prepared to negotiate with interested contracting parties with a view to further compensation if it was felt that the compensation already provided and provisionally applied was not adequate. In conclusion, he emphasized that the spirit and intent of Article XXVIII would be fully

complied with, and the proposed departure from the letter of the provisions was caused only by the problem of timing.

MR. ADAIR (United States) understood the problems which faced the New Zealand Government, particularly since his own Government was also considering a revision of tariff nomenclature. He was somewhat disturbed, however, by the proposal to effect increases of bound rates of duty before Article XXVIII negotiations had been completed, and hoped that the New Zealand Government would be able to reconsider its intention in order to comply with the procedures laid down in that Article.

Mr. STUYCK (Belgium) shared the views of the United States representative and asked whether it might be possible for the New Zealand Government either to postpone the entry into force of such increases until after negotiations within GATT, or to send to Geneva before the end of the parliamentary session a delegation to negotiate with interested contracting parties. Whatever the nature of the modifications, it was essential for interested contracting parties to be fully informed.

Mr. GARCIA OLDINI (Chile) supported the Belgian representative's statement.

Mr. CHRISTIE (Union of South Africa) said that in the document and the statement a full explanation had been given of the circumstances in which New Zealand had found it necessary to revise its tariff but was not able fully to comply with the procedural requirements of Article XXVIII. It was natural that contracting parties should feel concern at any departure from GATT rules and procedures, but there was a case for special consideration and it was obvious that New Zealand intended fully to honour its GATT obligations. He would therefore not oppose the procedure proposed in L/735.

Mr. PRESS (New Zealand) said that his Government had considered the possibility of postponing the application of any increased rates of duty on bound items until after completion of negotiations under Article XXVIII, but there were obstacles to that course. The new tariff nomenclature would involve the re-arrangement and shifting of many items or sub-items, and to postpone action on GATT concessions would dislocate the new tariff structure. It was his Government's intention to send a delegation to negotiate with interested contracting parties at the appropriate time, but he emphasized that the fact that the modifications would already have been applied would in no way preclude negotiations for further compensation.

The CHAIRMAN proposed that the question should be referred to the Working Party on Schedules for further consideration.

It was so agreed.

#### 8. Trade Restrictions on Orthopaedic Appliances (L/738)

The CHAIRMAN recalled that a Recommendation by the Committee of Experts on Public Health of the Council of Europe to the Committee of Ministers, dealing with barriers on trade in artificial limbs and orthopaedic appliances, had been

submitted to the CONTRACTING PARTIES at the Eleventh Session. This Recommendation had been adopted by the Council of Europe in connexion with the agreement drawn up by the Council on the exchange of war cripples with a view to medical treatment. At their Eleventh Session contracting parties had been asked to furnish details of their duties and regulations of trade in these products. The information received had been reproduced in the addenda to document L/616. In document L/738 the Executive Secretary had indicated that it appeared that the objective of the Recommendation could be best achieved if the governments concerned were invited by the Council of Europe to take any necessary action to facilitate the importation of the products in question and in the circumstances envisaged. As no technical obstacles to the achievement of this objective seemed to exist, the CONTRACTING PARTIES might advise the Council accordingly to enable the Council to continue its study of the action it might take in implementing the Recommendation of its Committee of Experts on Public Health.

The CONTRACTING PARTIES instructed the Executive Secretary to reply to the Council of Europe in the sense indicated by the Chairman and to transmit copies of the relevant documentation, including document L/738, to both the Council and the World Health Organization.

The meeting adjourned at 4.30 p.m.