

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Twelfth Session

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SUMMARY RECORD OF THE EIGHTEENTH MEETING

Held at the Palais des Nations, Geneva,
on Friday, 22 November 1957, at 2.30 p.m.

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

Subjects discussed:

1. Consultations under Article XII:4(b):
Reports on consultations with the Federal Republic of Germany,
the Kingdom of the Netherlands, Finland, the United Kingdom,
Rhodesia and Nyasaland, and the Union of South Africa
 2. Continued Application of Schedules
 3. Article XVII - Notifications
 4. Franco-German Treaty on the Saar
 5. Application of the Agreement to Laos, Cambodia and Tunisia
 6. Franco-Tunisian Customs Union
 7. Freedom of Contract in Transport Insurance
 8. Marks of origin
 9. Co-operation with the Organization of American States
 10. Chairmanship of ICCICA
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1. Consultations under Article XII:4(b): Reports on consultations with the Federal Republic of Germany, the Kingdom of the Netherlands, Finland, the United Kingdom, Rhodesia and Nyasaland and the Union of South Africa (L/644 and Add.1, L/746)

Mr. COZZI (Chairman of the Working Party on Balance of Payments), introducing the reports, said the report on the Federal Republic of Germany, which had been discussed at a previous meeting, could now be considered having in mind that consequential action resulting therefrom would be taken up in the Working Party on German Import Restrictions. He pointed out that when the Consultations Committee conducted its consultation with the Kingdom of the Netherlands in June the results of the International Monetary Fund's 1957 consultation with that country had not been available; they were later received, however, and distributed in document L/644/Add.1 and this should be read in conjunction with the report on the Netherlands. The other reports were on consultations conducted during the present Session and he had nothing to add to what was contained therein.

A discussion then ensued on the report of the consultation with the Kingdom of the Netherlands.

Mr. NAEGELI (Denmark) recalled that before the Committee had proceeded with its consultation with the Netherlands under Article XII:4(b) it had been informed that since the Netherlands had balance-of-payments difficulties only vis-à-vis the dollar area, only the restrictions on imports from that area should be discussed. This left a legal problem with respect to import restrictions, other than Article XII restrictions, which were still being applied to countries outside the dollar area. His delegation hoped therefore that the Netherlands delegation could give some indication as to how their Government intended to rectify this situation.

Miss SEAMAN (United Kingdom) said that her delegation also was somewhat perplexed by the position of the Netherlands in regard to the maintenance of restrictions against the non-dollar area. The United Kingdom delegation had often expressed the view that the time for contracting parties to invoke certain other provisions agreed upon by the CONTRACTING PARTIES was when they were on the point of leaving the shelter of Article XII. That view, however, assumed that the restrictions were justified for balance-of-payments reasons even though in certain instances they might have some incidental protective effects. It seemed therefore, as pointed out by the representative of Denmark, that the maintenance of restrictions against the non-dollar area raised a question for the CONTRACTING PARTIES. Miss Seaman recognized that the policy in respect of non-dollar restrictions was very liberal and that their removal would also lead to difficulties in relation to common Benelux quotas but enquired as to what the Netherlands Government had in mind for dealing with the formal position that arose.

Mr. ADAIR (United States) said that although the restrictions in force for other than balance-of-payments reasons were not applicable to the dollar area, it in no way diminished the hope of his delegation that the Netherlands would proceed as soon as possible toward a solution of this aspect of their restrictions compatible with the General Agreement. He welcomed the relatively high degree of liberalization now in force and hoped that the solution to the present situation would be in the direction of further liberalization.

Mr. WARREN (Canada) recalled that during the consultation the representative of the Netherlands had indicated that the restrictions maintained on balance-of-payments grounds were not really restrictive and that full liberalization would therefore have slight or perhaps negligible effects on the Netherlands' balance-of-payments situation. Further, the representative of the Netherlands had emphasized that the full liberalization of trade remained the stated objective of his Government and would be accomplished as soon as the balance-of-payments situation permitted. In view of these statements, Mr. Warren enquired whether the representative of the Netherlands could comment on the present outlook and indicate future prospects with regard

to the remaining restrictions maintained for balance-of-payments reasons. Insofar as the other restrictions were concerned, he expressed the hope that they would be eliminated or that appropriate action would be taken in the light of the General Agreement.

Mr. HOOGWATER (Kingdom of the Netherlands) was gratified to observe that the discussion had offered a great deal of good advice rather than sharp criticism. The Netherlands authorities at present maintained, and hoped to maintain, a high degree of liberalization, and despite temporary balance-of-payments difficulties in the previous year they had not resorted to new or intensified restrictions.

Turning to future prospects he said that although balance-of-payments difficulties had continued there had been some amelioration of the situation and it was hoped that the results of fiscal and monetary measures that had been taken would have further mitigating effects. Meanwhile, it remained the firm intention of his Government to dismantle all restrictions maintained for balance-of-payments reasons and to seek recourse to the provisions of the hard-core waiver for any restrictions that might be retained.

There being no further comments the CONTRACTING PARTIES approved the reports on the consultations with the Federal Republic of Germany, the Kingdom of the Netherlands, Finland, the United Kingdom, Rhodesia and Nyasaland, and the Union of South Africa.

2. Continued Application of Schedules (W.12/16)

The CHAIRMAN recalled that under the Decision of the CONTRACTING PARTIES of May 1957 (L/635) arrangements had been made analagous to those provided in the revised text of Article XXVIII whereby contracting parties wishing to withdraw or modify concessions in their schedules might enter into negotiations for that purpose in the second half of 1957 the negotiations had begun in Geneva on 1 October and should be completed before the end of the year so that the withdrawals and modifications agreed upon could be made effective on 1 January. Some of the negotiations had been finished but many others were still in progress. In addition, some new notifications of items to be withdrawn or modified had been submitted recently and it was understood that others are still to come. In these circumstances, it was evident that many of the negotiations would not be completed by the end of the Session, and it was even probable that some of them would not be finished by the end of the year. To provide for this contingency, the Chairman suggested that the draft decision to open for signature a declaration on the continued application of schedules (W.12/16) be amended to include a paragraph providing for the completion after 1 January 1958 of the uncompleted negotiations. The Chairman proposed therefore that the date of 30 November 1957 be fixed for the acceptance of further notifications of items to be withdrawn or modified, that the date of 30 March 1958 be fixed for the conclusion of the negotiations, and that the latter date could be extended by the Intersessional Committee if negotiations could not be concluded by that time.

Mr. REISMAN (Canada) and Mr. PEKIN (Australia) proposed that the dates suggested by the Chairman for the submission of notifications be extended until 31 December 1957. With regard to the time for the completion of the negotiations, Mr. Reisman urged that the date fixed should be adhered to, and he urged contracting parties when engaging in negotiations to complete them as **expeditiously** as possible.

The CHAIRMAN pointed out that under the revised Article XXVIII notifications should have been submitted "not later than three months prior to 1 January 1958". However, in view of the fact that the new text had not entered into force until 7 October 1957, perhaps an extension to 31 December 1957 could be allowed without creating a precedent.

The CONTRACTING PARTIES agreed that notifications for modifications or withdrawals of concessions be accepted up to 31 December 1957, and that the tariff negotiations be concluded by 1 March 1958.

Mr. VARGAS-GOMEZ (Cuba) enquired as to the position of contracting parties which had accepted the amended text of Article XXVIII and which for the purpose of carrying out a tariff reduction were entering into negotiations which could not be completed until after 1 January 1958.

The EXECUTIVE SECRETARY in reply said that when such contracting parties had completed their negotiations it would be open to them to abandon their invocation of paragraph 5 of Article XXVIII (revised) and their schedules would then be bound.

The CHAIRMAN then stated that, as instructed by the Intersessional Committee, the Executive Secretary had submitted for consideration draft instruments relating to the continued application of schedules as from 1 January 1958 (W.12/16). These drafts took into account the fact that, under the text of Article XXVIII, which was in force for twenty-eight contracting parties, the schedules of these contracting parties would have an assured life of three years from 1 January 1958 to 31 December 1960, except that, under paragraph 5 of Article XXVIII, any contracting party might elect before 1 January 1958 to reserve the right to modify its schedule during that period. It was proposed that a declaration should be opened for signature by the other nine contracting parties whereby they would undertake not to invoke the provisions of Article XXVIII for the withdrawal or modification of concessions during the same period of three years. Although it had just been decided that the draft Decision should be amended to include provision for the continuation of Article XXVIII negotiations after the end of the year, the Chairman proposed that the remainder of these texts should nevertheless be examined at this meeting and he enquired whether, subject to that amendment, these texts were acceptable.

There being no comments on the drafts the Chairman stated his understanding that they were acceptable; when the amendments decided upon had been inserted they would come up for formal approval by the CONTRACTING PARTIES.

Mr. ADAIR (United States) informed the CONTRACTING PARTIES that the proposed simplification of the United States tariff might be implemented by Congressional action as early as 1959, and would therefore require extensive renegotiations since it entailed certain minor upward and downward adjustments in tariff rates.

Mr. NAEGLI (Denmark) notified the CONTRACTING PARTIES that his Government was preparing a transposition of its tariff into the Brussels Nomenclature and during the next binding period might approach the CONTRACTING PARTIES for authority to enter into negotiations with a view to modifying some bound tariff items whose classification would be altered in the new nomenclature.

3. Notifications under Article XVII (Spec/188/57)

The CHAIRMAN recalled that at the Sixteenth Meeting, when approving the draft of a decision on arrangements for the submission of notifications under Article XVII, the CONTRACTING PARTIES had noted that it might be desirable to make some slight amendments to take account of the comments by the representative of the United States. He submitted the proposed amendment for the approval of the CONTRACTING PARTIES (Spec/188/57).

The CONTRACTING PARTIES approved the Decision as amended.

4. Franco-German Treaty on the Saar (Spec/189/57)

The CHAIRMAN referred to the draft Decision on a waiver for France and the Federal Republic of Germany in connexion with their trade relations with the Saar, which had been submitted for approval at a previous meeting (SR.12/16). He invited the CONTRACTING PARTIES to approve the revised Decision as set out in document Spec/189/57.

The CONTRACTING PARTIES approved the Decision by thirty votes in favour, none against.

Mr. JIRASKA (Czechoslovakia) explained that his delegation had abstained in the voting because the territory of the Saar was to form a part of a unified Germany. His delegation regretted that the Treaty of Luxemburg on the Saar had been concluded with only one of the two existing German States.

5. Application of the General Agreement to Laos, Cambodia and Tunisia (W.12/37)

The CHAIRMAN recalled that at the Eleventh Meeting of the Session the Executive Secretary had been requested to consult with the French delegation and with the Governments of Laos, Cambodia and Tunisia, with a view to implementing in respect of those three countries the Recommendation concerning the application of the provisions of Article XXVI:5(c), and to formulate proposals before the end of the Session. A draft Recommendation was now submitted for approval (W.12/37).

Mr. PANSEGROUW (Union of South Africa) said that his country met with difficulties in continuing to apply the Agreement to countries which had become independent and thus eligible for the status of contracting party. In certain instances it might not be possible to continue to apply the Agreement for rather lengthy periods if these countries could not definitely state that they were reciprocating.

Mr. PRESS (New Zealand) supported the views expressed by the South African representative. In order to make the Recommendation effective he urged that an early notification be made to individual contracting parties on behalf of these three States indicating that these countries continued to apply the General Agreement de facto.

In reply to a question by Mr. SVEC (Czechoslovakia), the DEPUTY EXECUTIVE SECRETARY reported that the consultations referred to had indicated that the Government of Laos agreed to continue de facto to apply the General Agreement for a period of one year, provided the CONTRACTING PARTIES continued de facto to apply the Agreement to Laos. The Government of Tunisia desired a term of two years because it had acquired independence more recently than Laos. Consultations had been initiated with Cambodia but it was doubtful that a reply would be obtained from Phnompenh before the close of the Session.

Mr. DONNE (France) explained that the French Government, by a declaration addressed to the secretariat of the United Nations in 1949, had extended the application of the General Agreement to the territories listed in Annex B to the Agreement. It was the understanding of his Government that Laos, Tunisia and Cambodia had hitherto applied the General Agreement and still continued to apply it. He therefore thought that before taking measures to withdraw from these countries the benefit of the General Agreement, contracting parties should make sure that there were good grounds for taking such a decision.

The CONTRACTING PARTIES adopted the Recommendation.

6. Franco-Tunisian Customs Union

The CHAIRMAN recalled that at the Eleventh Session the CONTRACTING PARTIES had instructed the Intersessional Committee to examine the provisions of the Convention establishing the Franco-Tunisian Customs Union. The Committee had agreed that it would be advantageous to defer consideration of this question until the Twelfth Session in view of the fact that the Final Act of the Common Market Conference included in an annex a Declaration of Intention to propose to the independent countries of the franc area the opening of negotiations with a view to concluding conventions for economic association.

Mr. DONNE (France) explained that his delegation had informed the CONTRACTING PARTIES on 13 February 1956 that the Economic and Financial Convention of 3 June 1955, instituting a customs union between France and Tunisia, had come into force on 1 January 1956 (L/475). The text of the Protocol of Application of the said Convention and the common tariff to be applied by Tunisia and France on imports from third countries had been made available to the CONTRACTING PARTIES to enable them to ascertain whether the provisions of Article XXIV were fulfilled. In a subsequent memorandum (L/559) the French Government had indicated the changes introduced in the trade relations and tariffs between the two constituent territories. The Preamble to the Protocol of Application, reproduced in that memorandum, laid down that "The Customs Union... shall be established in conformity with the provisions of Article XXIV of the GATT in order that the Union may be recognized internationally without previous discussion in the relevant international bodies". The memorandum showed clearly that the Customs Union was instituted on the basis of the principles set forth in Article XXIV. At the Eleventh Session the French delegation had stated that it would be prepared to furnish complementary data. No contracting party had expressed a desire for additional information or for consultations with France on this matter. The French Government therefore concluded that no contracting parties had objections to the Customs Union.

Miss LOUGH (United Kingdom) felt that at this late stage of the conference there was little time left to discuss the full implications of this Customs Union. Her delegation had some doubts whether it was entirely consistent with

Article XXIV and thought that it would be appropriate further to examine this question at the Thirteenth Session in the light of the developments in the examination of the Common Market proposals.

The CONTRACTING PARTIES decided to maintain this item on the agenda of the Thirteenth Session.

7. Freedom of Contract in Transport Insurance (L/462)

The CHAIRMAN recalled that a draft Resolution prepared by a working party at the Tenth Session had been on the agenda for consideration at the Eleventh Session. The Chairman had then been informed of a persisting divergence of views among the contracting parties and that they would prefer to defer consideration of the draft until the present Session. He enquired whether the CONTRACTING PARTIES were now ready to take up this item.

Mr. ADAIR (United States) said that his delegation had a special interest in the matter. A number of technical problems and policy considerations were involved for several delegations and these deserved serious consideration. Having this in mind, and in view of the pressing problems which would require the attention of the CONTRACTING PARTIES during the few days before the close of the Session, his delegation thought that it would not be appropriate to request lengthy discussions on this item at this stage. He proposed that the item be carried over for consideration at the Thirteenth Session.

It was agreed to defer consideration of this item and to include it in the agenda for the Thirteenth Session.

8. Marks of Origin (Basic Instruments and Selected Documents, Fifth Supplement, p.103).

The CHAIRMAN referred to the discussion on this item at a previous meeting (SR.12/11). Contacts he had had with a number of delegations and also the representatives of the International Chamber of Commerce had shown that additional proposals might be put forward, which would, however, not be available for consideration during this Session. It appeared from the discussions that any recommendations the CONTRACTING PARTIES might make on the subject of marks of origin would be of real value only if they added to or clarified the provisions already included in Article IX in the direction of facilitating international trade and avoiding situations in which producers for export find it necessary to maintain various lines of production as a consequence of marking regulations in force in other countries.

In order to facilitate consideration of this question at the Thirteenth Session, the CONTRACTING PARTIES, at the suggestion of the Chairman, instructed the secretariat to prepare a draft Recommendation and to distribute it to the contracting parties well in advance of the next session.

9. Co-operation with the Organization of American States (L/736)

The EXECUTIVE SECRETARY recalled that in giving explanations in the Working Party on the Budget on certain proposals for the opening outside Europe of regional offices of GATT he had described the efforts which the secretariat had made to extend and intensify the co-operation of the CONTRACTING PARTIES with regional organizations dealing with trade matters. Preliminary contacts with the Organization of American States, which was doing important work in connexion with trade in the American continent, had proven fruitful. He had therefore examined, with the Secretary-General of that Organization, the possibility of establishing continued and extended co-operative relations at the secretariat level. As indicated in his note (L/736) it appeared that the powers of the Secretary-General of that Organization did not go far enough to conclude such an arrangement on this basis and that formal agreement was necessary. The Executive Secretary therefore requested formal authority from the CONTRACTING PARTIES to establish such relationship.

Mr. MARTINEZ (Cuba), Mr. OLDINI (Chile), and Mr. PIRIZ (Uruguay) indicated that their Governments attached great importance to the policy of establishing co-operative relations with other international organizations. They supported the request of the Executive Secretary.

Mr. MACHADO (Brazil), sharing the views of the previous speakers, hoped that the CONTRACTING PARTIES could the following year accept the proposal to establish permanent machinery for facilitating relations with intergovernmental bodies in Latin America.

The CONTRACTING PARTIES authorized the Executive Secretary to establish co-operative relations with the Council of the Organization of American States as provided for in Article 61 of the Charter of that Organization.

10. Chairmanship of ICCICA

The CHAIRMAN reported that the nomination of a Chairman for ICCICA had been considered by the Heads of delegations, who had taken note of the proposal of ICCICA submitted to the CONTRACTING PARTIES by the Secretary-General of the United Nations, that in order to ensure continuity of approach by the Committee, the Chairman should in future be appointed for a period of three years. The Heads of delegations had recognized the value and importance of continuity in the Chair, but had felt that in the case of ICCICA, which was by its very nature a temporary organization, it would not be appropriate to make nominations for such periods. Having regard, however, to the principle of continuity, the Heads of delegations had decided unanimously to nominate Sir Edwin McCarthy, the present Chairman, for the ensuing year.

The CONTRACTING PARTIES agreed to renominate Sir Edwin McCarthy for the Chairmanship of ICCICA for the following year.