

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

SR.16/7
13 June 1960

Limited Distribution

CONTRACTING PARTIES
Sixteenth Session

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SUMMARY RECORD OF THE SEVENTH MEETING

Held at the Palais des Nations, Geneva,
on Friday 27 May 1960, at 2.30 p.m.

Chairman: Mr. E.P. BARBOSA DA SILVA (Brazil)

- Subjects discussed:
1. Anti-dumping and countervailing duties
 2. Italian customs treatment for imports of Somalian products
 3. European Economic Community
 4. Accession of Portugal
 5. Accession of Spain

1. Anti-dumping and countervailing duties (L/1141)

The CHAIRMAN said that, at the thirteenth session, the CONTRACTING PARTIES agreed that the Executive Secretary should convene a group of governmental experts for the purpose of "exchanging information regarding the technical requirements of existing legislation on anti-dumping and countervailing duties in their respective countries". The Group had presented a first report (L/978) to the fourteenth session and its second report had now been submitted; this was contained in document L/1141.

Mr. POCHELU (France), Chairman of the Group of Experts, referred to the most important questions considered by the Group during its meeting from 18-22 January 1960; the discussion on these questions was reported in document L/1141. He drew particular attention to the suggestions of the Group in paragraphs 37 and 38 of the report. In paragraph 37 the Group suggested that contracting parties should be invited to transmit to the secretariat any information concerning changes in their legislation relating to anti-dumping and countervailing duties, and also to notify the secretariat of the introduction, alteration or removal of such duties. The secretariat, in turn, should inform contracting parties of the notifications received. As was indicated in paragraph 38, some experts had also suggested that the secretariat should submit to the CONTRACTING PARTIES, during one of the two annual sessions, information showing the anti-dumping and countervailing duties in force in each country, indicating changes which had occurred since the last information had been provided. These suggestions took account of the intention underlying the provisions of Article X and of the fact that, if implemented, they could have a restraining effect on the use of anti-dumping and countervailing duties. It was essential, if the efforts made since the war toward the removal of barriers to trade were not to be frustrated that governments should, inter alia, avoid the excessive use of anti-dumping and countervailing duties; these measures should be considered as exceptional and temporary.

Mr. SWARD (Sweden), having referred to the very high quality and value of the Group's second report, made particular reference to paragraph 16 of the report which expressed the Group's view that a government wishing to carry out an investigation in an exporting country should first approach the government of the country concerned; his delegation was glad to see this recommendation. Sweden also supported the suggestions made in paragraphs 37 and 38 of the report. Mr. Sward went on to say that, in the view of his delegation, the Group should be given the opportunity of continuing its work; in this connection the question of consolidating the results so far achieved by the Group was important. On account of the heavy work programme to be carried out by the CONTRACTING PARTIES and the secretariat in the near future, his delegation would not propose a further meeting of the Group before the seventeenth session; they would suggest, however, that the question of anti-dumping and countervailing duties be included on the agenda for the seventeenth session so as to permit further discussion concerning the activities of the CONTRACTING PARTIES in this field. In expressing his delegation's support for the adoption of the Group's report, Mr. Sward said that they would propose that the CONTRACTING PARTIES, when adopting the report, should express the view that, pending further progress, the two reports of the Group of Experts should serve as a guide for contracting parties when applying the provisions of Article VI of the General Agreement.

Mr. PHILIP (France), speaking on behalf of the Member States of the EEC, said that one of the consequences of the success which had been achieved in recent years in removing certain important barriers to trade was that governments had been tempted to use other protective measures, notably anti-dumping and countervailing duties; it was, therefore, necessary to introduce more control and discipline in this field. For this reason the Member States of the EEC would propose that the Group of Experts, drawing upon the work they had already done, should prepare a number of common rules, in the form of a recommendation, which could be submitted either at the seventeenth session or, if the work programme did not permit, at the eighteenth session, for the consideration of the CONTRACTING PARTIES. These rules could constitute a "code of good conduct" for contracting parties contemplating the use of anti-dumping or countervailing duties under Article VI of the General Agreement.

Mr. SOMMERELT (Norway), having expressed his Government's interest and appreciation for the work done by the Group of Experts, supported the proposals put forward by the representative of Sweden, including the suggestion that the question of anti-dumping and countervailing duties should be included on the agenda for the seventeenth session so that it would be discussed further by the CONTRACTING PARTIES.

Mr. TREU (Austria) expressed the appreciation of his delegation for the report of the Group of Experts and said that he supported the views and proposals put forward by the representative of Sweden. He went on to explain, however, that in view of the differences of opinion which existed between contracting parties regarding the applicability of Article VI of the General Agreement, his delegation had in the past been obliged to enter a reservation on this question. This reservation was set out in document L/963/Add.6 and had, moreover, been repeated and explained in detail at the thirteenth session (SR.13/16). This reservation relating to the provisions of Article VI continued to be valid. In concluding, Mr. Treu said that his delegation fully supported the adoption of the report of the Group of Experts.

Mr. HIRAN (Israel), having expressed the satisfaction of his delegation regarding the recommendations contained in the report of the Group of Experts, said that they did, however, have certain misgivings in respect of paragraph 33 of the report. Article VI of the General Agreement permitted the imposition of countervailing duties only in those cases where material injury to established domestic industry was caused or threatened, or where the establishment of a domestic industry would be materially retarded. The wording of paragraph 33 might be taken as implying that this was not an essential prerequisite for the imposition of countervailing duties. In the view of his delegation, even if a country's legislation did not provide for injury as a criterion for the imposition of countervailing duties, that country would still, under the provisions of the General Agreement, have to ensure that the conditions set out in Article VI:6 existed before it imposed such duties.

Mr. TAYLOR (New Zealand) said that, in the view of his delegation, paragraph 23 of the Group's report was not entirely clear. It spoke of "domestic industry" whereas Article VI:6(b) of the General Agreement referred to "industry in the territory" of another contracting party. As paragraph 23 stood, it was not clear what would be the position of an industry in a third country producing only for export. Further, it excluded the concept of "threatening" material injury, which was referred to in paragraph 6 of Article VI and would thus appear to modify the terms and intentions of that paragraph. His delegation would therefore suggest that paragraph 23 should read as follows: "In order to avoid any misunderstanding, the Group wished to stress that a third country, in order to justify a request to an importing country to impose measures against another country, should produce evidence that the dumping engaged in by the other country was causing or threatening material injury to an industry in its territory and not merely a loss of export trade insufficient to cause or threaten such injury."

Mr. PSCOLKA (Czechoslovakia) said that the nature of the questions discussed by the Group of Experts underlined the need for governments to use their anti-dumping powers with great care. Both dumping and the measures used to combat it were weapons of commercial policy and could be injurious to the development of international trade relations. The work of the Group of Experts was, therefore, of considerable value and was a contribution towards establishing order and discipline in this particular field; in this connection his delegation would again stress the need for more consultation and less unilateral action on the part of governments. In conclusion, Mr. Pscolka said that his delegation supported the adoption of the Group's report, including the recommendations contained in paragraphs 37 and 38, and the suggestion that the work of the Group should be continued.

Mr. GAROLA OLDINI (Chile) said that recognition of the damage to a country's interests that could be caused by dumping had prompted the CONTRACTING PARTIES to make provision in the General Agreement for governments to be able to use anti-dumping and countervailing duties under certain conditions. Contracting parties had often expressed their concern that the right thus conferred was liable to be abused and the CONTRACTING PARTIES had rightly occupied themselves with this question. However, as his delegation had pointed out in the past, the same attention had not been given to the question of dumping and the possible means of combatting it. The juridical and

technical difficulties involved in attempting to analyse this question was recognized by his delegation but they did, however, feel that at each possible opportunity such as, for example, in any future reports of the Group of Experts, the question of dumping and the dangers inherent in it should at least be mentioned. There was another aspect of this problem which caused concern. This was that, while the less-developed countries did sometimes use subsidies, these could never disturb international trade or injure the big industrial countries. This was not the case when such measures were applied by the big industrial countries; these measures, it was true, might adversely affect other industrial countries, but they primarily affected the less-developed countries which were mainly exporters of primary commodities but which, in some cases, could now put manufactured goods on to the world's markets. Mr. Oldini concluded by suggesting that, in its future reports, the Group should draw attention to this situation and to the need to find the means of defending the less-developed countries from the dangers inherent in it.

Mr. BLEBAS (Greece) said that his delegation supported the adoption of the Group's report, including the proposals contained in paragraphs 37 and 38 of the report.

Sir Edgar COHEN (United Kingdom) said that the work of the Group of Experts had given the opportunity for a useful exchange of information concerning the practices and techniques of different governments in the administration of their anti-dumping legislation. He fully agreed with those representatives who had stressed the importance of these problems to their countries. He likewise agreed with the representative of Chile regarding the serious problems dumping and subsidies could pose for countries in the process of economic development and he felt that the time might come when the Group could usefully examine these questions. In this connexion, however, he considered that it would be preferable not to reconvene the Group for this purpose until such time as there was concrete evidence of difficulties being encountered which the Group could examine and on which it could make recommendations to the CONTRACTING PARTIES. This, he felt, would be more satisfactory than the Group examining the problem in the abstract. In conclusion, Sir Edgar Cohen said that his delegation supported the Group's suggestion in paragraph 38 of its report.

Mr. LACARRE (Uruguay) said that his delegation, like others, realized that anti-dumping powers could be abused and any procedures supplementary to those contained in Article VI of the General Agreement were to be welcomed. He supported the proposal of the representative of Sweden that this question should be included on the agenda for the seventeenth session and the proposal of the representative of France that consideration be given to entrusting to the Group of Experts the task of formulating a "code of good conduct" for contracting parties contemplating the use of anti-dumping measures.

Mr. CAWOOD (Rhodesia and Nyasaland) supported the view put forward by the representative of Chile that special attention should be paid to the difficulties faced by the less-developed countries which were trying to diversify their economies by the establishment of new industries. Where the national market was small, dumping could do irreparable damage. His delegation would, therefore, certainly be in favour of the Group examining, not only the question of the use of anti-dumping measures, but also the question of dumping itself.

Mr. ADAIR (United States) said that his delegation considered the report of the Group of Experts to be generally satisfactory. While his delegation were under the impression that the Group had completed its task they would, if contracting parties considered that the Group should carry out further work, be prepared to participate in such further work at the seventeenth session or later. In reference to the proposal that the Group might be asked to formulate a "code of conduct" Mr. Adair expressed the view that such a code was in fact contained in Article VI of the General Agreement; what was necessary was for that Article to be adhered to.

The recommendations in paragraphs 37 and 38 of the report of the Group of Experts (L/1141) were approved by the CONTRACTING PARTIES. The report as a whole was adopted.

The CHAIRMAN suggested that, as proposed by certain representatives, contracting parties should look upon the two reports of the Group of Experts as being a guide for them in their application of the provisions of Article VI of the General Agreement. He further suggested that this item should be maintained on the agenda for the seventeenth session, at which time the CONTRACTING PARTIES could decide whether they wished the Group to undertake further work.

This was agreed.

2. Italian customs treatment for imports of Somalian products
(L/1206 and Add.1)

The CHAIRMAN explained that this item had been placed on the agenda at the request of the Government of Italy.

Mr. PARBONI (Italy) said that his Government had informed the CONTRACTING PARTIES of its intention to maintain, after 1 July 1960 when Somalia became independent, special customs treatment in favour of imports of Somalian products. This would economically assist the new State. As, however, it was not possible at this stage to evaluate the political and economic changes that would follow the cessation of Italy's mandate, his Government felt that it could not submit a formal, detailed request to the CONTRACTING PARTIES until the seventeenth session. His Government would, therefore, be grateful if the CONTRACTING PARTIES, without taking a formal decision on the matter, would agree to the maintenance, until the seventeenth session, of the special customs treatment for Italian imports of Somalian products to which he had referred.

Mr. GURMA (Somalia) referred to the Resolution passed by the General Assembly of the United Nations, exhorting Member States and specialized agencies to provide all possible assistance to Somalia after its independence. The fact that Somalian exports had risen significantly during

the past ten years was due to the special customs treatment given to Somali imports by Italy. The proposal in document L/1206, which had been prepared in consultation with the Somali Government, would be to the benefit of Somalia.

Mr. HARAN (Israel) said that the preferential arrangement inherent in the proposal put forward by Italy raised certain problems for Israel and his delegation were pleased, therefore, that there would be an opportunity to study this matter at the seventeenth session. Preferences were at present being granted to Somalia by Italy and, as this arrangement was not covered by paragraph 2 of Article I of the General Agreement, his delegation was anxious that the deferment of consideration of this matter until the seventeenth session should not be interpreted as a recognition that the situation was compatible with the provisions of the General Agreement.

Mr. VIDAL (Brazil) said that this question caused some concern to Brazil whose attitude was one of non-concurrence in any suggestion that new preferences should be granted. Brazil understood, however, the problems which faced a country at the beginning of its economic development. At the seventeenth session, therefore, an attempt should be made to protect the interests of Somalia while, at the same time, safeguarding the position of other countries.

The CHAIRMAN proposed that the consideration of this matter should be recorded in the summary record in the following terms:

"The CONTRACTING PARTIES note

1. that the Government of Italy intends, as a part of the aid to be accorded by several Members of the United Nations to the independent State of Somalia after 1 July 1960, to continue to accord to imports from Somalia the special tariff provisions which are at present in force:
2. that these special tariff provisions are not fully in accord with Italy's obligations under the GATT, but that the Government of Italy intends to submit a formal request at the seventeenth session for a waiver of its GATT obligations to enable it to maintain these special tariff provisions; and
3. that, in noting this intention of the Italian Government, they in no way prejudice the decision they may take when considering the request for a waiver at the seventeenth session."

This was agreed.

3. European Economic Community

The CHAIRMAN said that, as at the fifteenth session, this item relating to the Rome Treaty had been included on the agenda at the request of the Member States of the European Economic Community.

Mr. DUHR (Luxemburg), speaking on behalf of the Member States of the EEC, referred to the information which had been given to the CONTRACTING PARTIES at the fifteenth session by the representative of the Commission of the EEC and to the further information provided since then concerning a number of decisions such as, for example, those relating to the Community's common external tariff, which had been taken by the competent authorities of the Community. Mr. Duhr went on to refer to another important decision taken on 12 May 1960 by representatives of the Member States concerning the acceleration of the application of the Treaty of Rome, and said that he had been instructed by the Luxemburg Minister for Foreign Affairs, acting in his capacity of Chairman of the Council of the Community, to hand to the Chairman of the CONTRACTING PARTIES the text of this decision. Mr. Duhr concluded by saying that the Member States and institutions of the Community had felt that it would be appropriate to include on the agenda of the sixteenth session an item relating to the Treaty of Rome, so that the Community would have the opportunity of providing, on its own initiative, certain information which might be of interest to contracting parties.

Mr. HIJZEN (Commission of the EEC),¹ gave the CONTRACTING PARTIES an account of the developments which had occurred within the Community since the fifteenth session of the CONTRACTING PARTIES.

Mr. GRANDY (Canada) said his delegation had noted with satisfaction the reference made by the representative of the Commission, when talking about the Community's common agricultural policy, to the intention of the Community to maintain trade with outside countries at the highest possible level. The arrangements for agriculture now being formulated by the Six were of major importance to countries like Canada which exported agricultural products; in Canada's case such exports accounted for more than 40 per cent of its total exports to the Six. The earlier proposals put forward by the Commission of the Community had given rise to concern. The application of some of these proposals, which inter alia envisaged the continued use of quantitative restrictions and the use of variable import levies, would have been very restrictive and could have had the effect of relegating outside exporters to the position of residual suppliers. It was essential, when the Six were formulating their agricultural policies, that they should take full account of the views and interests of outside contracting parties. The CONTRACTING PARTIES should discuss this very important question before firm decisions were taken by the Six and it would facilitate this consideration if the CONTRACTING PARTIES could be informed of the proposals in good time; preferably very soon after they were submitted to the Council of Ministers.

¹The full text of Mr. Hijzen's statement has been reproduced in document L/1215 and Corr.1.

Sir John CRAWFORD (Australia) asked whether it would be possible in future for the Commission's statement to be circulated to contracting parties after the session began but before the item was discussed in plenary; this would enable a more fruitful discussion to take place. He went on to say that it was to be hoped that all contracting parties would share in the expanding trade to which the representative of the Commission had referred. There were two particular matters to which he wished to draw attention however. One of these concerned the determination of the List G rates and, on this point, he was glad to be able to say that due weight had been given by the Community to Australia's views on the items of particular concern to it. His delegation were, however, somewhat in the dark as to whether current proposals for the reduction of the common external tariff would be applied to products on List G; in their view it would be desirable to treat these products in the same way as others and they would be interested to know the Community's thinking on this point. Sir John Crawford said that he hoped the satisfactory outcome of the consultations with the Community on certain List G items would be reflected in similar action in connexion with other aspects of the Rome Treaty; in particular he had in mind the most important question of agricultural policy. Like the representative of Canada, he welcomed the assurance given by the representative of the Commission that full account would be taken of the interests of outside countries. While it was realized that agricultural policy was in the process of being formulated within the Community, although now at an accelerated pace, sufficient information had been published to cause serious concern about some of the methods being contemplated for the protection of agriculture. He did not intend to raise points of substance at this stage but he would again stress the view, which he understood was acceptable to the Community, that this matter should, at the appropriate time, be discussed by the CONTRACTING PARTIES. The appropriate time, in his opinion, would be before firm decisions had been taken, so that the Council of Ministers of the EEC would have before them the views of the Community's trading partners. His delegation would suggest therefore that, as the Community's agricultural policy was formulated over the next few months, the CONTRACTING PARTIES should be adequately advised of its details as it was considered by the different bodies of the Community. The eventual aim must be a full discussion of an emerging and, it was to be hoped, liberal programme. Any discussion on the basis of decisions already taken and not capable of amendment was not likely to be in the best mutual interests of the Member States of the Community and the other contracting parties to the General Agreement.

Mr. ADAIR (United States) said his delegation congratulated the Community on the economic and institutional progress that had been achieved. In reference to the association of the overseas territories with the Community, Mr. Adair said that his delegation hoped that the ad hoc committee established in 1959 by the Council of Ministers of the Community had made progress in finding mutually acceptable solutions to the problems which arose; in this connexion he noted that the forthcoming tariff negotiations would also afford an opportunity to deal with this matter. Commenting on the development of the Community's agricultural policy, Mr. Adair said that his delegation attached the greatest importance to the development of trade policies covering agricultural products which would ensure the highest possible level of international trade. Some of the proposals put forward by the Commission of the Community gave rise to concern. The proposed use of variable import

fees could well take the agricultural products subject to such fees out of the GATT. Further, the maintenance or imposition of quantitative controls could seriously impair international trade. Similarly with respect to the transitional period of six years, the proposed long-term delivery agreements between exporting and importing Member States and the imposition of a ceiling on imports of some products from outside countries could damage the trade interests of those countries. The United States' concern was not only related to the direct interests of its own economy but also to the interests of contracting parties generally. The success of the Community and the degree of outside support for it would greatly depend on the extent to which it developed in a spirit that reaffirmed the fundamental aims and ideals of the General Agreement. In conclusion Mr. Adair said his delegation likewise agreed that the CONTRACTING PARTIES should have the opportunity to consider the Community's proposals on agriculture at the appropriate time.

Mr. RIZA (Pakistan) said that the increased trade of the Community was encouraging, but he would point out that there was no way of assessing to what extent this increase might have been exceeded if the Community had not had restrictions and other barriers to trade against certain imports from outside countries. As was known, there was still a very high incidence of taxation and other restrictive measures currently applied by some Member States of the Community against certain imports. It was to be hoped that the forthcoming tariff negotiations would help to remove some of these restrictions and thus afford much-needed relief to the less-developed countries whose export trade was affected by them. In reference to the statement of the representative of the Commission that there was a shortage of manpower within the Community, Mr. Riza said that Pakistan, which had a manpower surplus, would welcome capital from the Member States of the Community so as to absorb this surplus and promote Pakistan's industrial development.

Mr. VIDAL (Brazil) supported the proposal of the representative of Australia that, in order to promote a fuller discussion, it would be helpful if, in future, the statement of the representative of the Commission could be circulated to contracting parties before it was discussed in plenary. After stressing the importance to certain outside countries of the trade in coffee and cocoa, Mr. Vidal said that the agricultural policies of some of the Member States had impeded the expansion of trade in a number of products. He hoped that the Community's new agricultural policies would, for example, be more liberal with respect to trade in sugar, which was an export of considerable importance to Brazil.

The CHAIRMAN proposed that the discussion of this item be resumed at a subsequent meeting.

This was agreed.

4. Accession of Portugal (L/1203)

The CHAIRMAN said that, as was recorded in document L/1203, the Government of Portugal had formally expressed its wish to accede to the General Agreement and had declared its readiness to enter into tariff negotiations during the forthcoming tariff conference.

Mr. DE ALCAMBAR PEREIRA (Portugal), in presenting his Government's request, paid tribute to the success which the work of the CONTRACTING PARTIES had had in furthering the objectives of the General Agreement; this success was reflected in the continuing increase in GATT membership. Portugal wished to contribute to the efforts being made by the CONTRACTING PARTIES and, as contracting parties had been informed in document L/1203, it had now submitted a request for accession. He hoped the CONTRACTING PARTIES would find it possible to comply with this request.

A large number of representatives warmly welcomed Portugal's application for accession.

Mr. ADAIR (United States), in warmly welcoming Portugal's application, pointed out that his Government, under its domestic procedures, was not in a position to make any advance commitments regarding possible concessions which it might offer to Portugal, but it was willing to enter into negotiations with Portugal during the forthcoming tariff conference.

Mr. SWAMINATHAN (India) said that, because of the situation existing between India and Portugal, no relations or negotiations between them were possible. He had to say, therefore, that at the appropriate time his Government would apply the provisions of Article XXXV to Portugal and to any of her dependent territories considered to be covered by the provisions of the General Agreement. When Portugal's request was put to the vote he would have to abstain.

The CHAIRMAN proposed that Portugal should be invited to participate in the forthcoming tariff conference with a view to accession under the provisions of Article XXVIII of the General Agreement. He would submit proposals at a later meeting of the CONTRACTING PARTIES during the session regarding the status of Portugal pending its accession.

This was agreed.

5. Accession of Spain (L/1205)

The CHAIRMAN said that, as was recorded in document L/1205, the Government of Spain had formally expressed its wish to accede to the General Agreement in accordance with the provisions of Article XXXIII.

Mr. GARCIA DE LLERA (Spain),¹ in presenting his Government's request, pointed out that Spain was one of the "third countries" which did not belong to either of the two economic groups in Europe. From Spain's point of view it was important that the markets of these two groups should remain as accessible as possible to imports from outside countries; his Government recognized the importance of the efforts being made within the GATT to encourage this objective. He went on to describe the development of the

¹Mr. Garcia de Llera's full statement will be distributed to contracting parties in document L/1239.

Spanish economy and to indicate the broad lines of the commercial policies followed by his Government. In concluding his statement Mr. Garcia de Llera said that Spain wished to accede to the GATT and that it was ready to participate in the forthcoming tariff conference and would like to take part in the work of the CONTRACTING PARTIES.

A large number of representatives warmly welcomed Spain's application for accession.

Mr. ADAIR (United States), in welcoming Spain's application, said that his earlier statement in regard to tariff negotiations with Portugal applied equally in the case of Spain.

The CHAIRMAN proposed that Spain should be invited to participate in the forthcoming tariff conference with a view to accession under the provisions of Article XXXIII. He would submit proposals at a later meeting of the CONTRACTING PARTIES during the session regarding the status of Spain pending its accession.

This was agreed.

The meeting adjourned at 5.45 p.m.