

GENERAL AGREEMENT ON TARIFFS AND TRADE

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SUMMARY RECORD OF THE SEVENTH MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 November 1971, at 3 p.m.

Chairman: Mr. Carlos BESA (Chile)

Subject discussed: Examination of Preferential and Special Trading
Arrangements (Proposal by the United States)

Mr. PROPPS (United States) felt that his delegation's three proposals, although they all merited attention at the present session of the CONTRACTING PARTIES, were not of the same importance. The first proposal for the establishment of a schedule to deal with customs unions and free-trade areas notified under Article XXIV, would ensure that examination of these arrangements was spread out evenly throughout the year. He considered that such a procedure would be advantageous to the parties to such arrangements, providing them with a forum for reporting regularly on progress achieved. It would also, of course, be beneficial to other contracting parties to have an established procedure for examination of developments under these arrangements and would, moreover, provide a framework to contracting parties for drawing attention to any developments affecting their interests or the interests of the CONTRACTING PARTIES, thereby obviating the need for recourse to bilateral and other procedures. He suggested that the CONTRACTING PARTIES should decide to request the Council to establish a schedule for examination of these arrangements.

The second proposal was that the CONTRACTING PARTIES should decide, at this session, upon appropriate and mutually acceptable arrangements for proceeding towards the negotiations which would arise following the enlargement of the European Communities. On the assumption that the negotiations for enlargement would be successful, acceding countries would replace their existing schedules of concessions with the schedules of the enlarged Communities. The resultant changes in the structures of the schedules of acceding countries entailed negotiations under the General Agreement which, experience had shown, would be time-consuming. It was assumed that the acceding countries would initiate their adjustments both towards a new external tariff as well as towards agreed common policies in early 1973 and that these adjustments would be preceded by negotiations towards an agreed framework of GATT schedules.

*The page numbers of SR.27/6, pages 77-91, should be renumbered pages 81-95.

On these assumptions, little more than a year remained for completing the negotiations under the General Agreement. While recognizing that the time was not yet ripe to begin the negotiations, his delegation considered it politically desirable that arrangements be made to enable preparations to be begun almost immediately and to make appropriate procedural decisions to facilitate the future negotiations. If this proposal were generally acceptable, a working party might be set up to consider the procedures for dealing with the accession of the various countries to the Communities, and to make recommendations for the conduct of negotiations under the General Agreement, especially Article XXIV. His delegation would not propose precise terms of reference for the Working Party until it had consulted with the countries concerned during the session. This proposal was analagous to the proposal of other delegations to make procedural decisions for the preparation of wider GATT negotiations, but should be kept separate from that proposal.

The third proposal, previously introduced and circulated by his delegation, called attention to the general problem arising from the conduct of an increasingly large amount of trade at rates of duty other than most favoured nation. He reiterated that the proposal should not be construed as seeking to pass judgments on the merits of the arrangements under review, but was simply designed to initiate an examination of the problem, proceeding from analysis of the statistics to a consideration of their implications. A multilateral study, leading to a joint assessment of the question might dissipate certain exaggerated misapprehensions arising from the problem, and might lead the CONTRACTING PARTIES in the direction of a world-wide increase in trade.

Mr. VALENZUELA (Chile) observed that the proposals made by the United States representative were of very great importance for the future of the GATT and at the same time gave rise to very complex problems. He had transmitted the document to his Government for study, and could not state his position before receiving instructions from his authorities.

Mr. KITAHARA (Japan) stated that his delegation had given the statement of the United States careful attention and considered that a global study of trade flows, under most-favoured-nation and other than most-favoured-nation arrangements, would contribute to a better understanding of the problems of world trade. The study would provide contracting parties with information which would be necessary for any future multilateral negotiations. He stated that his delegation supported the United States proposal and suggested that the modalities of the study could be discussed further in the Working Party after it had been set up. What could be accomplished within six months might be rather limited, but the CONTRACTING PARTIES could consider what could be done thereafter in the light of the report of the Working Party and of the actual situation in world trade then prevailing.

Mr. STEWART (New Zealand) said that his delegation could also support, in principle, the proposal to set up a working party to examine preferential and special trading arrangements and would wish to participate in such a working party. He hoped that there would be no duplication with the work of other working parties which might be set up. A number of problems had to be settled before terms of reference could be agreed. In view of the lack of time, he proposed that the specific terms of reference be decided later, on a priority basis, by the Council.

Mr. LUYTEN (European Communities) said that, in connexion with the first United States proposal, with one exception only, namely the agreement with Greece, all the regional agreements to which the Community was a party had already been examined by working parties in 1970 or 1971 or were under examination and were currently at the questionnaire stage of the procedure.

He emphasized that of course he was not referring to the Rome Treaty, which was no longer in an interim stage within the meaning of Article XXIV but had been carried out. In the past, the Community had furnished information to the CONTRACTING PARTIES each year on the evolution of the progressive implementation of those arrangements and was prepared to continue to follow that procedure. Nevertheless he queried the usefulness of an annual examination because on the one hand the activities of the CONTRACTING PARTIES or the Council might be overburdened thereby, and on the other hand experience showed that the evolution was not very great over a twelve-month period. For that reason it would be reasonable and constructive to envisage that the countries concerned should send the communication every two years, whether on the basis of a commitment or voluntarily on their part.

Mr. LINDENBERG SETTE (Brazil) considered the three United States proposals to be interconnected and, pointed out, that they were of great importance since they involved a re-examination of GATT's action programme and could even have a suspensive effect on parts of it. He considered it inappropriate to demand a decision during the current session on such an important issue. He had transmitted the proposals to his authorities but was not in a position to state whether or not instructions would be forthcoming in time. The silence of his delegation should not be taken as a sign of disapproval or approval of the proposals.

Mr. ARCHIBALD (Trinidad and Tobago), Mr. KOMPAORE (Upper Volta), Mr. PATEL (India) and Mr. MANSOOR (Egypt), said that they shared the views expressed by the Chilean and Brazilian representatives and were likewise unable to state their position on the proposals made by the United States on 19 November 1971, having not yet received instructions from their respective Governments.

Mr. FOGARTY (Australia) considered that the proposal for a time-table to consider different arrangements was a reasonable and realistic one. He noted that his country provided regular information regarding arrangements in which it participated. He considered that GATT would benefit from a regular procedure as proposed by the United States.

The CHAIRMAN suggested that the proposal that the Council should establish a schedule for the periodic examination of the different arrangements be referred to the Council.

Mr. VALENZUELA (Chile) said that he could not concur with the Chairman's proposal and would prefer that the question be left pending until such time as delegations had obtained instructions from their governments which would enable solutions to be found concerning the procedure to be followed.

The CHAIRMAN decided to revert to the question later in the session.

Mr. LUYTEN (European Communities) said that he understood the interest to which the negotiations for enlargement of the Community had given rise. Those negotiations had not yet been completed, however, and the modalities for aligning the customs regulations of acceding countries with those of the Community had not yet been fixed. That was why the Community considered that it would be premature at the present juncture to establish a machinery such as the United States representative had proposed, before even knowing what that machinery would be, and before the terms of reference or the questions to be studied had been determined.

Furthermore the CONTRACTING PARTIES already had an efficient machinery, namely the Council, which could meet at short notice if necessary and was consequently the appropriate body to examine the question, once the results of the negotiations for enlargement had been transmitted to the GATT. In the view of the Community, there was no need at the current session of the CONTRACTING PARTIES to take simple decisions as to procedure on which the Council was competent to pronounce whenever it wished. In conclusion, he re-affirmed the Community's concern to comply with its obligations and with all the procedures stipulated in the General Agreement.

Mr. STRUS (Poland) stated that it was the view of his delegation that an enlargement of the EEC would have a great impact on world trade and grave consequences for the trade of many countries. He pointed out that the subject had been raised on various occasions but that no firm decision had been taken on it. He added that a suggestion for a study of the effects of the EEC enlargement on world trade and on the trade of developing countries in particular, had been made in the Committee on Trade and Development. He stressed however that the problem was of such importance that it merited discussion within a wider forum. He stated that according to estimates made during recent bilateral consultations with the United Kingdom delegation exports worth about US\$60 million, representing one third of his country's exports to the United Kingdom might be

eliminated within one or two years of Britain's accession to the EEC. He asserted that the enlargement would have damaging effects on many exports of developing countries, especially in the agricultural sector. He stressed that the issue should be examined in all its aspects and a detailed study should be undertaken within GATT as early as possible.

Mr. KOMPAORE (Upper Volta) supported the Community's proposal and suggested that the discussion on the matter should be postponed until later. It was important for all countries to have sufficient time to reflect so that they could make a useful contribution to the discussion.

Mr. FOGARTY (Australia) considered that it would be appropriate for the CONTRACTING PARTIES to take note of the advanced stage of the negotiations for enlargement. He was pleased to note the assurance of the representative of the European Communities that the obligations and procedures of the General Agreement would be observed. He took it that, after the conclusion, i.e. the signing, of the individual accession agreements the obligations deriving from paragraph 7(a) of Article XXIV would be fulfilled.

He acknowledged that procedures would be necessary and suggested that the Council be instructed at the appropriate time to implement the necessary actions, within a short period.

Mr. LAM (United Kingdom) pointed out that the issue went beyond the mere question of whether the countries concerned with the enlargement of the EEC recognized their obligations under the GATT; neither was it a question of particular problems which certain countries would be faced with such as that raised by the representative of Poland. He stated that a number of contracting parties were engaged in complicated negotiations which were not yet finished. The countries were fully aware of their obligations to embark on and follow through with Article XXIV procedures, but the way in which this was to be done and the timing in these exceptional circumstances should be a matter for discussion between members of the enlarged communities. While he realized the wish of some contracting parties to see some procedural steps taken now, he considered it technically premature, for a number of reasons already evoked, to take the steps proposed by the United States. His delegation was however prepared to go along with some resolution on the basis of the Australian proposal that there should be an acknowledgment that certain procedures would have to be taken and that these would be taken at the appropriate time.

Mr. WARDROPER (Canada) stated that his delegation shared the view of the Australian delegation that the CONTRACTING PARTIES at the present session take note of the negotiations taking place in Brussels. He stated that Article XXIV, paragraph 7(b), could not be resorted to at the present time but he considered it feasible that the Council be directed to undertake the necessary preparatory work in anticipation of the successful conclusions to the negotiations. He stressed that with that in view it might be advantageous for a working party to be set up

to prepare the ground, not to deal with the details of the Agreements which would be signed but to consider the means by which the CONTRACTING PARTIES could tackle the issues with which they would be confronted.

Mr. TOMIC (Yugoslavia) said that, though he felt that the proposals made by the delegate from the United States were very important, he would need more precise details as to what the United States wanted to achieve with these studies.

The CHAIRMAN decided to revert to this matter later in the session.

Mr. PROBST (Switzerland) said he agreed that in recent years much of the progress made in eliminating barriers to trade had taken place within arrangements to which not all the contracting parties were parties. It was also true that the full extent of that development had not been foreseen at the time when the General Agreement had been drafted, but he did not think that that led to the conclusion that the Agreement was out of date. What had to be accepted was rather that the CONTRACTING PARTIES should continue to try to achieve the objectives of the GATT, especially those contained in Article I, so as to remove the barriers to trade that still survived despite the progress made in a geographically restricted area.

He was rather surprised at the stir created by the United States proposal. It had to be remembered that the agreements instituting customs unions, free-trade areas or preferential links had been submitted to the CONTRACTING PARTIES and the Council, and that on those occasions the question of the relationship between Article I of the GATT and agreements of that kind had invariably been discussed. The issue was therefore not a new one, nor was it a deliberate infringement of the fundamental rules of the GATT. It was rather the other developments which had taken place that autumn which seemed to weaken the GATT rules and to impair the tariff and non-tariff results of multilateral negotiations based on the most-favoured-nation clause.

The terms of reference of the Working Party proposed by the United States delegation should be considered with care. It would be interesting to make a statistical study to ascertain how much trade still took place under the most-favoured-nation clause and how much did not; as the amount of trade not governed by that clause had increased during the past ten years, he would like the study to relate those facts to the clauses on which they were based, notably the clauses appearing in Articles I, XXIV and XXV of the General Agreement. He was prepared to accept the 1955-1970 period as a basis for the study. The study might be extended to cover the agreements being negotiated in Europe under Article XXIV, once those agreements had been concluded, as factual data would then be available and the existing uncertainties would have been cleared up.

He thought that the proposed study of the generalized system of preferences for the developing countries could only be included when all the developed countries had put their system into operation.

Mr. LUYTEN (European Economic Community) pointed out that the Community had not yet reached any decision on the United States proposal; it considered that the exchanges of views which had taken place on the matter up to now were merely informative and preparatory. There were, nevertheless, some comments which he wished to make at this stage in the discussion, and he would begin by noting that the United States proposal concentrated on one of the general questions arising out of the developments and trends in international trade, namely the regional liberalization which had gone forward in parallel with world liberalization.

What the United States proposal wished to do was to define by statistical methods what was called the erosion of the most-favoured-nation clause, which was the subject of Article I, of the General Agreement. The Community was reluctant to see the problem in those terms; it would surely be odd to say that one article was being eroded by the application of another article which formed part of the same Agreement and did not deal with waivers. It was necessary to reflect on the reasons which had led the CONTRACTING PARTIES to include Article XXIV in the General Agreement. Theorists distinguished between the diversion of trade caused by the establishment of customs unions or free-trade areas and the creation of trade both between the parties to those unions and between those parties and third countries. Although that was a theoretical distinction, it was nevertheless all-important when efforts were being made to arrive at conclusions on the basis of statistical data in which the two phenomena were closely linked. An example was Benelux, which had been a customs union for twenty-five years; would an analysis of their total trade, including intra-Benelux trade, in relation to the trade of those countries with the rest of the world be likely to produce data relevant to the question put by the United States? Again, there was the Agreement between the United States and Canada on automotive products. In 1965, United States imports of those products, which had later been the subject of a waiver, had amounted to \$227 million, whereas for the fiscal year 1971 they had amounted to about \$3,900 million out of total imports of \$45,000 million. Was it to be concluded from those statistics that in the case under consideration the most-favoured-nation clause had been eroded by around 7 to 9 per cent? He thought not; and the parties to that Agreement did not seem to think so either, since they persisted in saying that it was in fact a single industry and that the frontier which divided it was an anomaly and led to artificial and anti-economic practices. The two countries concerned had been stating for five years that the Agreement had not caused any deflection of trade and the other contracting parties had not proved the contrary. He therefore wondered what purpose those statistics would serve in relation to the question raised by the United States. There were often other obstacles and distortions affecting trade flows; in the case of strategic goods, for example, there was sometimes a lower tariff for countries which were not members of GATT than for those which were. A decision would also have to be made about how zero duties were to be treated in making such an analysis, since, depending on the assumption adopted, the results could be quite different. The proposed study was to deal with existing as well as projected preferential systems, a point about which there was still a good deal

of uncertainty; all the aspects of the United States proposal must be considered in order to avoid embarking on a tariff study without being sure that any results thereby obtained would really help to throw light on the question raised by the United States. It was necessary to find a procedure that could be justified in terms of scientific economic study and, for that reason, the Community would not take up a final stand on the matter until every aspect of the problem had been thoroughly examined.

Mr. LAM (United Kingdom) stated that the proposal of the United States representative was a loaded one since it was only meant to prove a conclusion arrived at beforehand. If the intention was to examine the trade diversion or trade creation effects of the preferential arrangements then the proposal of the United States was not the right approach since such an examination had to take into consideration various other factors such as rise in incomes, increasing product differentiation, changes in consumer tastes, technology, etc. He pointed out that several studies on the issue had not been altogether conclusive. He stressed that any statistical study of international trade flows must be a practical, open and objective one and not directed towards proving any specific viewpoint. He was not altogether sure that a study of this nature could be launched; however he thought it expedient for the matter to be left open for reflection so that delegations could return to it at a later occasion.

The CHAIRMAN decided to revert to this matter later in the session.

The meeting adjourned at 5 p.m.