

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

C/48

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REPORTS ON THE LEGAL AND INSTITUTIONAL FRAMEWORK AND PREFERENCES

Conclusions reached by Council on 29 October 1964

1. Legal and Institutional Framework (L/2281 & Corr.1 & Add.1)

1. The Council has reviewed the provisions in the draft Chapter annexed to the report of the Legal and Institutional Committee and notes that, while substantial progress had been made, it had not been possible to reach full agreement on certain points. The Council therefore, was of the opinion that a conciliation procedure should be put into effect on 16 November with a view to seeking solutions so that the CONTRACTING PARTIES may be able to proceed with the consideration and adoption of the proposed Chapter.

The Council took note of the recommendation in paragraph 16 of the report of the Legal and Institutional Framework Committee that a Legal Drafting Group should be set up composed of legal experts from members of the Committee which can make such experts available. The Council approved the setting up of a Legal drafting Group which should submit its report to the contracting parties as early as possible before the Special Session. The Council approved the following terms of reference for the Group:

- (i) to remove any legal drafting imperfections in the new Chapter;
- (ii) to ensure conformity between the texts in the two official languages;
- (iii) to make a recommendation on the most appropriate means for incorporating the Chapter in the General Agreement;
- (iv) to draw up the protocol of amendment.

2. The Council also considered those sections of the report of the Legal and Institutional Committee relating to the matters on which the Committee had not completed its study. The Council reached conclusions on the following points:

(a) Amendment of Article XVIII

The Council considered the request of the Legal and Institutional Committee that appropriate arrangements be made for examining proposals (including the Australian proposal - L/2165) for the amendment of Article XVIII and agreed that such proposals should be referred to the Legal and Institutional Committee for examination and that this Committee should report with appropriate recommendations to the Council.

(b) Amendment of Article XXIII¹

The Council considered a recommendation from the Legal and Institutional Committee that a Working Party should be established to review in the light of experience the operation of Article XXIII, taking into consideration the proposal by Brazil and Uruguay (L/2195/Rev.1, Annex 4) and any other proposals that might be put forward by contracting parties. The Council has examined this request and recommends that the Legal and Institutional Committee should undertake this task, to the extent that the proposals fall within its terms of reference, and should report with appropriate recommendations to the Council.

3. Establishment of Committee on Trade and Development

The Council took note of the proposal to set up an adequate permanent institutional framework for the effective supervision of the Chapter on Trade and Development and that such a framework should take over the functions of Committee III and of the Action Committee and its subsidiary bodies.

The Council recommends that the CONTRACTING PARTIES should envisage the setting up of a Committee on Trade and Development with appropriate terms of reference which might be formulated as follows:

1. to keep under continuous review the application of the provisions of the Chapter on Trade and Development;
2. to carry out, or arrange for, any consultations which may be required in the application of the provisions of the Chapter;
3. to formulate proposals for consideration by the CONTRACTING PARTIES in connexion with any matter relating to the furtherance of the provisions of the Chapter;
4. to consider any questions which may arise as to the eligibility of a contracting party to be considered as a less-developed contracting party in the sense of this Chapter and to report to the CONTRACTING PARTIES;
5. to carry out such additional functions as may be assigned to the Committee by the CONTRACTING PARTIES.

In this connexion, the representative of Brazil drew the attention of the Council to his remarks recorded in paragraph 15 of document L/2281, and reserved the position of his Government with regard to the recommendations contained in this paragraph.

The Council noted a suggestion that in view of the importance of the Committee on Trade and Development reference to it should be made in the Chapter itself. Some members of the Council drew attention to difficulties which might arise if this action were taken, but it was agreed that the Legal Drafting Group should look into the legal advisability of including in the Draft Chapter appropriate reference to the machinery required for pursuing the work of the CONTRACTING PARTIES as provided in the Chapter.

¹The Australian delegation reserved its position on this paragraph.

2. Preferences (L/2282)

The Council noted that a number of delegations had suggested that the Draft Chapter on Trade and Development should contain an enabling clause permitting the establishment of preferences. A number of other delegations, however, believed that it would not be possible to reach agreement on the Draft Chapter if such a provision were inserted and that there was a general desire to reach agreement on the Chapter before the Special Session. The Council has been unable to resolve these differences.

The Council proposes that further discussion concerning the establishment of preferences should be held so that it may be possible to make a submission to the CONTRACTING PARTIES at a later date, and accordingly the Council recommends:

- (a) that the CONTRACTING PARTIES invite contracting parties, wishing to do so, to submit proposals concerning the granting of preferences on selected products by industrialized countries to less-developed countries as a whole, and the granting of preferences on selected products by less-developed countries to all other less-developed countries.

The Council noted that contracting parties submitting proposals would do so on the basis of such assumptions as they consider appropriate. These proposals might take account of the points mentioned in paragraphs 13 and 14 of the report of the Working Party on Preferences. In this connexion, the Council understands that a number of contracting parties submitting proposals may wish to do so on the basis of the assumptions set out in paragraph 12 of the Working Party's report.

- (b) that the proposals made under paragraph (a) above be referred to the envisaged Committee on Trade and Development for examination, through such procedures as it considers suitable for the purpose, with a view to making an appropriate submission to the CONTRACTING PARTIES at their annual session. This Committee would take over the work of the Working Party on Preferences.