GENERAL AGREEMENT ON
TARIFFS AND TRADE

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COUNCIL
Special Session

MINUTES OF SPECIAL MEETING HELD

at the Palais des Nations, Geneva
on Thursday, 5 January 1961

Chairman: Mr. J.H. WARREN (Canada)
Mr. E. TREU (Austria)

Subjects discussed: 1. United States Request for Authority to renegotiate under Article XXVIII:4

2. Canadian Request for Authority to renegotiate under Article XXVIII:4

Mr. J.H. WARREN (Canada) who had presided at the first session of the Council, was asked to continue in the chair for the present meeting. At the request of Mr. Warren, who did not wish to preside over the discussion on the Canadian item, Mr. E. Treu was elected Chairman.

The CHAIRMAN, in the name of the Council, paid tribute to the person and the achievements of Dr. Hans Staehle, whose death was a great loss to the secretariat and to the contracting parties.

1. United States request for authority to renegotiate under Article XXVIII:4 (GATT/AIR/214)

The representative of the United States explained the circumstances which had induced the United States Government to present its request. He recalled that the President of the United States, after receiving certain recommendations from the United States Tariff Commission, had in August 1955 taken "escape clause" action on bicycles which embodied only part of the Tariff Commission's recommendations. For domestic purposes, the authority for such action depended upon the authorization contained in the Trade Agreements Act of 1951, as amended. In the course of the 1956 round of tariff negotiations the United States granted compensation to certain contracting parties for this modification of the United States rates of duty on bicycles. This compensation was still in effect. However on 20 July 1960 the Court of Customs and Patent Appeals ruled that under the Trade Agreements Act of 1951, as amended, the recommendation of the Tariff Commission could only be accepted or rejected in full and that the President in taking action could not strike any form of compromise. On 12 December 1960 the United States Supreme Court refused to review the case and the decision of the Court of Customs and Patent Appeals thus invalidated the action taken by the President in 1955 with the result that imports of large-wheel lightweight bicycles were again assessed at the duty originally fixed in Schedule XX.

The Court's decision raised questions in respect of the validity of the escape clause action taken on other kinds of bicycle and of another escape clause action in which the President had not strictly followed the recommendations of the Tariff Commission. His Government had therefore also included spring clothespins in the request which was now before the Council. For both bicycles and spring clothespins, the Tariff Commission has made several periodic reviews of the escape clause action to determine whether the original concession rates could be reinstated. In each case (the most recent being on 18 August 1960 for bicycles and 9 December 1960 for spring clothespins) the Commission found that the trade situation had not changed sufficiently to warrant such action. Consultations were still in progress with interested contracting parties with regard to compensation for the spring clothespin action.

It was clear that the return to the rate on the light-weight bicycles bound in GATT would cause serious disruption and distortion of trade unless a remedy were promptly found. He therefore hoped that the Council would agree to a finding of special circumstances within the meaning of Article XXVIII and grant authority to the United States Government to negotiate these concessions.

The Committee found the existence of special circumstances and agreed that the United States should be granted authority to renegotiate the items notified under the provisions of Article XXVIII:4.

The CHAIRMAN said that any contracting party which considered that it had a "principal supplying interest" or a "substantial interest", as provided for in Article XXVIII:1 should communicate such claim in writing and without delay to the United States Government and at the same time inform the Executive Secretary. Any such claim recognized by the United States Government would be deemed to be a determination by the CONTRACTING PARTIES within the terms of Article XXVIII:1. If agreement could not be reached between the United States Government and a contracting party the matter could be referred to the CONTRACTING PARTIES.

As a venue for the negotiations the United States had proposed Washington where, they felt, the negotiations could be most expeditiously conducted. Others, among whom the spokesman of the Member States of the EEC, pointed out the inconvenience to themselves and to other contracting parties of detaching officials from the important Geneva negotiations to send them to Washington. Mention was also made of the advantage at all times, and at this time in particular, of conducting negotiations of this type in Geneva. It was agreed that the representative of the United States would report the above views to his Government and that the venue would be decided upon between the United States and the other interested parties, bearing in mind the desirability of expeditious completion of the renegotiations.

2. Canadian request for authority to renegotiate under Article XXVIII:4 (GATT/AIR/215(SECRET))

The representative of Canada recalled that at the fourteenth session the CONTRACTING PARTIES had authorized his Government (SR.14/5) to renegotiate almost all the items of the Canadian Schedule relating to textile products. Under that authority the Canadian Government had completed the renegotiation of the items relating to cotton and cotton products; textile wastes, wool or hair slivers, rovings and yarns: silk and man-made fibres and products. On 15 December 1960 the secretariat had circulated in SECRET/106/Add.9 a notice that the Canadian Government proposed to renegotiate a further portion of the items for which they had received authority. When these had been negotiated only a few of the items covered by the authority granted at the fourteenth session would remain to be considered. Cotton hose lined with rubber, which was the subject of the present request, had not been included in the request of the Minister of Finance to the Tariff Board because it was considered to be basically a product of the rubber industry. When it was brought to the Government's attention that such hose was the finished product of and closely related to a number of items included in the request of the Minister of Finance to the Tariff Board, the latter was asked to include this product in its enquiry. As it was possible that the Tariff Board might not recommend increases in bound rates of duty, it was however decided not to ask for additional authority under Article XXVIII. The Tariff Board report relating to narrow fabrics, lace, embroideries and fire hose had recently been received and was under study by the Canadian Government. Copies of the report had been made available to the public and to diplomatic representatives of contracting parties in Ottawa. In this report, noting that the rate of duty applicable to cotton hose lined with rubber was lower than that on its textile component, and in the light of the present position of this section of the textile industry, the Board recommends a modest increase, which is under consideration by the Government.

The statistics attached to GATT/AIR/215(SECRET) for the years 1957, 1958 and 1959 covered both rubber and rubber-lined hose. It was believed that cotton hose lined with rubber formed only a small part of the imports under this classification.

Requests for authority under Article XXVIII:4 were usually based by governments on the demonstrated and urgent need for additional protection. This was not the case for the present request. The Canadian Government had been conducting general modernization of their tariff on textiles. Changes already made had resulted in the removal of a number of anomalies of rate structure and of tariff nomenclature. The recommendations of the Tariff Board give only modest additional protection to some producers but also give more favourable terms of access for a substantial list of products. The Canadian request to renegotiate this item, not originally included in the broad authority granted at the fourteenth session, was made against this general background and in the light of the findings of the Canadian Tariff Board. The Canadian representative regretted that the study of the Board's report had not been so far advanced as to enable this part of item 619 to be included with the Canadian notification under Article XXVIII:1.

The Committee found the existence of special circumstances and agreed that Canada should be granted authority to renegotiate the items notified under the provisions of Article XXVIII:4.

The CHAIRMAN said that any contracting party which considered that it had a "principal supplying interest" or a "substantial interest", as provided for in Article XXVIII:1 should communicate such claim in writing and without delay to the Canadian Government and at the same time inform the Executive Secretary. Any such claim recognized by the Canadian Government would be deemed to be a determination by the CONTRACTING PARTIES within the terms of Article XXVIII:1. If agreement could not be reached between the Canadian Government and a contracting party the matter could be referred to the CONTRACTING PARTIES.