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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
19 October 1965

MINUTES OF MEETING

Held at the Palais des Nations, Geneva
on 19 October 1965

Chairman: Mr. N.V. SKAK-NIELSEN (Denmark)

1. United States tariff classification (C/63, C/W/90)

The Chairman recalled that at the last meeting of the Council, the representative of the United States had advised that his Government would request the CONTRACTING PARTIES for a finding of special circumstances under paragraph 4 of Article XXVIII and for an amendment of the waiver which had been granted in July 1963, in relation to certain technical amendments in the new tariff schedules and the renegotiations now in progress. Copies of a memorandum submitted by the United States representative had been distributed in document C/63 and copies of the proposed amendment to the Decision in document C/W/90.

The representative of the United States gave a recapitulation of the negotiations under the Tariff Simplification Act of 1954. He recalled that by mid-1965 his delegation had found that it would not be possible to conclude negotiations with five countries before the expiry of the 1963 waiver on 30 June 1965. His Government had then requested and obtained a further extension of the validity of the waiver to 30 June 1966. The principal cause of delay in the five cases had been the effort on the part of the United States to correct through legislative action certain errors and anomalies in the new tariff schedules, including some of particular interest to the contracting parties concerned. The Congress had not completed action on the bill submitted to it in 1964. A new bill had been introduced to the present Congress and the Tariff Schedules Technical Amendments Act of 1965 had now been enacted by the Congress and signed by the President.

The Tariff Schedules Technical Amendments Act of 1965 was intended primarily to rectify errors in the new schedules which had gone into effect on 31 August 1963. Only in very few instances were there changes other than those designed to restore rate levels and his delegation hoped that consultations and negotiations in relation to all rate increases, including any increases of that kind, above the present Schedule XX rates would be authorized by an amended waiver decision. His Government had been conscientious in trying expeditiously to conclude the consultations and negotiations arising from the extensive revision of the tariff pursuant to the Tariff Classification Act. Some of those negotiations had been delayed because of the natural desire of the negotiating partners to take into account the provisions of the new legislation. Now that the new provisions had been enacted, he hoped rapidly to complete the consultations and negotiations. The United States Government was not seeking a further extension of the time-limit provided in the waiver and the requested amendment did not affect the rights of other contracting parties under Article XXVIII. The amendment would simply provide the basis for putting the new duties into effect promptly before completing negotiations under Article XXVIII. Almost all duty reductions would be retroactive to 31 August 1963. Duty increases would become effective on 6 December 1965.

The representative of Japan said that his Government could not support the request made by the United States representative because the Tariff Schedules Technical Amendment Act provided for tariff increases which were a departure from the original purpose of the waiver of 1963 and from the context of technical revision of existing tariff classification. In the case of a certain product the Act went as far as to provide for a tariff increase of 200 per cent, from 12.5 per cent to 37.5 per cent ad valorem. This would have far-reaching adverse effects on Japanese exports to the United States market of the products concerned. Such tariff increases were inconsistent with the United States undertakings contained in the 1963 waiver that, prior to the completion of the Article XXVIII negotiations with respect to incidental tariff increases resulting from the enactment of the Tariff Classification Act of 1962, the United States would not increase any column 1 rate in the United States Tariff Schedules above the level provided for under the Tariff Classification Act. He deeply regretted that despite repeated representations by his Government and, he presumed, by other governments the Technical Amendment Act in its present form had been signed into law. His Government believed that the importance of the matter was such as to warrant the establishment of a working party.

The representatives of several of the contracting parties still engaged in negotiations with the United States stated that, while reserving their rights to compensation, where appropriate, in connexion with the provisions of the new legislation, they could support the request for an amendment of the waiver.

The United States representative pointed out that the tariff rate modifications contained in the Act had to be seen against the background of the amended valuation rules. He stressed that his Government would of course be prepared to offer adequate compensation in accordance with the provisions of Article XXVIII in cases where the interests of another contracting party would be affected by provisions of the new Act going beyond the terms of the original tariff schedules of 1963.

The representatives of Japan and of the United States agreed to have bilateral discussions as soon as possible in order to find a mutually satisfactory solution to the problems raised by the representative of Japan.

The Council agreed that the request for authority to renegotiate under Article XXVIII:4 should be granted and approved the text of the draft decision circulated in document C/W/90 on the understanding that the Japanese delegation would be free to request the matter to be discussed again in the Council, if a satisfactory solution were not reached in its bilateral discussions with the United States delegation. Ballot papers would be circulated to contracting parties in ten days from the date of the present meeting, if the delegation of Japan had not by then asked for a further discussion in the Council.

2. Canada/United States Agreement on Automotive Products (C/62)

The Chairman recalled that when the Canada/United States Agreement was examined by the CONTRACTING PARTIES at the twenty-second session it had been agreed that if the Government of the United States should consider it necessary to seek action by the CONTRACTING PARTIES in order to reconcile its participation in the Agreement with its obligations under the GATT the matter would be referred to the Council for consideration. The United States delegation had now transmitted a communication (document C/62) advising that the United States Government wished to obtain a waiver of certain GATT obligations in accordance with the provisions of paragraph 5 of Article XXV.

The representative of the United States said that the previous week the United States Congress had enacted legislation to enable definitive effect to be given to the Agreement. This legislation was before the President for signature. His delegation was therefore requesting the waiver which the Working Party had considered would be necessary. He recognized that the Council could not be expected to take substantive action on the request, but only to make appropriate procedural arrangements, i.e. to appoint a Working Party to consider the request for a waiver and to report its recommendations to the Council.

The Government of the United States was confident that the Agreement with Canada would have no substantial diversionary effect on trade with third countries in any of the products concerned. Nevertheless, it would expect the waiver decision to include appropriate provisions to safeguard contracting parties with respect to any substantial trade diversion that might be created by the exemption from duty of Canadian automotive products. The Government of Canada had given effect to the duty-free entry provisions of the Agreement from 18 January 1965. The United States wished promptly to give effect to the Agreement as well. His delegation earnestly hoped that arrangements could be made for early substantive action on the waiver request.

The representative of Canada supported the appointment of a working party as requested by the United States.

Several representatives supported the appointment of a working party to examine the request. The representative of the United Kingdom said that the granting of a waiver involving an indefinite departure from the most-favoured-nation rule was not necessarily the only solution or even the solution which would be in the best interests of the GATT and therefore in the working party the United Kingdom would wish to revert to broader questions. Some representatives associated themselves with the statement by the representative of the United Kingdom. The representatives of India and Chile said that the proposed waiver raised important questions of principle and had implications which required careful consideration.

The Chairman said that the terms of reference he would propose would make it clear that the task of the working party was to consider the request and to report to the Council with appropriate recommendations.

It was agreed to establish a Working Party with the following terms of reference:

> "To consider the request by the Government of the United States to the CONTRACTING PARTIES, in accordance with paragraph 5 of Article XXV of the General Agreement, to waive its obligations under paragraph 1 of Article I of the General Agreement to permit it to eliminate customs duties and other charges imposed on or in connexion with the importation of automotive products of Canada without being required to extend the same treatment to like products of any other contracting party, and to report to the Council with appropriate recommendations."

The Chairman suggested that the working party should meet in the first week of November. He requested contracting parties which wished to participate to inform the Director-General before the end of the month. The working party would elect its own chairman. This was agreed.

3. Protocol introducing Part IV on Trade and Development (L/2483)

The Chairman said that members of Council might be interested to have a report on the present status of the Protocol amending the GATT to introduce Part IV on Trade and Development, which had been opened for acceptance at the special session of the CONTRACTING PARTIES in February. The Protocol had been accepted by twenty-nine contracting parties. Sixteen other contracting parties had signed the Protocol "subject to ratification" or "ad referendum". These governments were listed in document L/2483. The Protocol was open for acceptance until 31 December and required forty-four acceptances in order to become effective. The Declaration providing for the de facto application of Part IV would also expire on 31 December. It was important that the formalities for bringing the Protocol into force should be completed within the next two months. Therefore representatives of governments which had signed the Protocol "subject to ratification" or "ad referendum" should remind their governments of the desirability of confirming their signature at an early date. Representatives of other governments which had not yet taken action towards acceptance of the Protocol should remind their governments that early action would expedite its entry into force.

The Chairman proposed that the Director-General should be requested to send a reminder to the governments concerned. This was agreed.

4. Date of next meeting of the Council

The Chairman said that it had been found advisable to postpone the meeting of the Council scheduled for 8 and 9 November until the end of November or first days of December. However, an earlier meeting would be convened if this should be found necessary in order to deal with matters requiring urgent attention.