

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

IC/SR.17

9 August 1954

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Ad Hoc Committee on Agenda
and Intersessional Business

SUMMARY RECORD

of the Meetings held at the Palais des Nations, Geneva,
on 2 and 3 August 1954

Chairman: Mr. L. Dana WILGRESS (Canada)

- Subjects discussed:
1. Procedures for Tariff Negotiations (continued)
 2. Accession of Japan
 3. Requests for Authority to renegotiate:
 - (a) Cuba
 - (b) United States
 - (c) New Zealand
 4. Methods of Valuation
 5. Federation of Rhodesia and Nyasaland

1. PROCEDURES FOR TARIFF NEGOTIATIONS (continued)

Mr. SEIDENFADEN (Denmark) said his Government could subscribe fully to the statement made by the Benelux countries in document L/210.

Mr. ISIK (Turkey) said the Turkish Government would find it difficult to agree to a further prolongation of the Schedules because of the economic conditions in Turkey and because it had recently adopted a new tariff system based on ad valorem in place of specific rates. Consequently, if the CONTRACTING PARTIES decided to prolong the assured life of the Schedules, the Turkish Government would be unable to do so without some modification of its own Schedule.

The CHAIRMAN said that the debate had been useful and instructive and should help Committee members in their preparation for the Ninth Session. There was, however, no basis for the formulation by the Committee of specific recommendations, as the Ninth Session would have to give very careful consideration to the divergent views. Close attention had been given to the Benelux statement (L/210) on their attitude to the French Plan. It was the view of a number of contracting parties that further progress on the French Plan would have to await the participation of major trading countries including the United States. A suggestion made by the Netherlands that if an adequate number of countries were willing they

might go ahead with the French Plan without United States participation had found no support. There were, therefore, no grounds for setting up a working party immediately in this connection, but one should be established shortly after the opening of the Ninth Session to deal with the French Plan and also with negotiation procedures. As to the prolongation of the Schedules beyond June 1955, different views had been expressed: emphasis had been laid on the necessity for tariff stability but there had also been recognition of the need for a certain flexibility. A compromise would have to be reached between the conflicting requirements as had been done at Torquay and at the Eighth Session. A lengthy and thorough examination of the problem would be necessary. Specific recommendations as to the prolongation date for the Schedules would be premature; the same applied to the date of a possible general round of tariff negotiations. All that could be done was to indicate to the CONTRACTING PARTIES the importance attached to these questions by the Committee.

The CHAIRMAN then suggested that the Committee might recommend to the contracting parties that they should endeavour to be in a position at the opening of the Ninth Session to pursue this question in connection with the review of the Agreement. Further, with reference to the question of prolonging the assured life of the Schedules beyond 30 June 1955, and in that event of affording an opportunity for contracting parties to make limited modifications of concessions contained in their Schedules, the Committee might recommend to the CONTRACTING PARTIES that consideration of this matter should be taken up early in the Ninth Session.

After a discussion in which several amendments were suggested in the proposed recommendations, the CHAIRMAN announced that he would submit a text for approval by the Committee. Subsequently, the following statement was submitted and approved:

"Having heard the views of delegations on the desirability of arranging for further action with respect to tariffs and their views on the establishment of adequate procedures, taking into account the French Government's proposal for the adoption of revised procedures of negotiation as well as the suggestion for a further round of negotiations on the Geneva and Torquay pattern, the Committee recommends to the contracting parties that they should endeavour to be in a position at the opening of the Ninth Session to examine this question further in connection with the review of the Agreement.

"Having heard the views of delegations on the question of prolonging the assured life of the Schedules beyond 30 June 1955 and, in that event, of affording an opportunity for contracting parties to modify concessions within the limits of Article XXVIII, and in particular having heard the statements by the representatives of several governments concerning the changes which must

be made in their Schedules consequent upon general tariff revision or changes in nomenclature, the Committee recommends to the CONTRACTING PARTIES that consideration of this matter be taken up early in the Ninth Session."

2. ACCESSION OF JAPAN

The CHAIRMAN recalled that there had already been a full discussion of Japan's accession to the General Agreement but that the Committee had deferred reaching a conclusion until after discussion of the procedures for tariff negotiations; he now submitted the following statement for approval by the Committee:

"The Committee noted that a number of delegations had supported the request, and that some of these had stated that their governments were prepared to enter into negotiations. Other delegations had made reservations as to the desirability of arranging for negotiations or as to the proposed timing of the negotiations.

"The majority of delegations, however, had supported the Japanese request, and the Committee, therefore, decided to recommend, for the consideration of the CONTRACTING PARTIES at their Ninth Session, that arrangements be made for negotiations to be held in Geneva commencing 1 February 1955 in accordance, generally, with the procedures adopted for the Annecy and Torquay negotiations in connection with accession to the Agreement.

"It was agreed that contracting parties which would wish to participate in such negotiations, if the CONTRACTING PARTIES should adopt the Committee's recommendations, should make every effort to so notify the Executive Secretary not later than 15 September 1954. Arrangements for the exchange of lists and trade data could then be made between each such country and Japan, except that lists of requests for concessions should be exchanged not later than 31 October."

Mr. PRENDERGAST (New Zealand) said that his Government would not be able to take a definite decision by the date proposed; this decision could be taken only after the review of the Agreement.

Mr. BUNTING (Australia) said the reservations he had made on behalf of his Government still held.

The CHAIRMAN's statement was approved.

Mr. HAGIWARA (Japan) thanked the Chairman and the Committee for the recommendation they were addressing to the CONTRACTING PARTIES and hoped that a large number of contracting parties would enter into negotiations with Japan.

Mr. BROWN (United States) said that, in view of the multilateral character of the negotiations, it was important for all contracting parties which were planning to enter into negotiations with Japan, to know what other contracting parties had the same intentions. This information was of special interest to the United States.

3. REQUESTS BY CUBA, UNITED STATES AND NEW ZEALAND FOR AUTHORITY TO RENEGOTIATE CERTAIN ITEMS IN THEIR SCHEDULES (CONT'D)

Mr. VARGAS GOMEZ (Cuba) said he had considered the conditions and procedures which the Chairman had proposed and had found them acceptable except for one point. The requirement that a government authorized to renegotiate should not only negotiate with the country to which the concession had been originally granted, but should also consult with any country claiming a substantial interest in the trade of the item in question, seemed to go beyond what could be reasonably expected of a contracting party. It might so happen that when the contracting party to which the concession had been originally granted was satisfied with the compensation offered another country, claiming to have a substantial interest, should find it insufficient. In that event would the authorized government be required to provide further compensation? If a government considering itself interested in an item should approach the authorized government on an informal basis it was likely that a settlement would be reached through direct discussions but it would not be proper to provide for such consultation in the formal procedures.

The CHAIRMAN explained that the procedure he had proposed was the same as that agreed upon in February for the renegotiations requested by India. The procedural requirement in question was based on paragraph 1 of Article XXVIII which included the words "subject to consultation with such other contracting parties as the CONTRACTING PARTIES determine to have a substantial interest in in such treatment". These substantially interested contracting parties were also referred to in paragraph 2(b) of that Article. In the Cuban case it appeared unlikely that any other country could claim a substantial interest and he hoped that the Cuban representative would not oppose the procedure.

Mr. VARGAS GOMEZ (Cuba) said that although he had raised the point as a matter of principle, and not because it affected the Cuban request, he would withdraw his objection.

At the suggestion of Mr. SINCLAIR (United Kingdom) paragraph 2 of the Chairman's proposed procedure (IC/SR.15, page 8) was changed to read:

"In addition to the negotiation with the country to which the concession was initially granted, the government receiving the authorization would consult with countries determined to have a substantial interest in the trade in the item concerned."

The CHAIRMAN further explained that under this procedure it would be open to any contracting party on the basis of trade statistics or otherwise to claim to have a substantial interest, but it would be for the CONTRACTING PARTIES to decide in each case on an ad hoc basis whether the claim was justified. Further, it was not possible for the Committee to establish a definitive list of the contracting parties which had or claimed to have a substantial interest in the items under consideration as those not represented at the meeting could subsequently claim an interest.

(a) The Cuban Request

Mr. SINCLAIR (United Kingdom) asked for some indication of the exceptional circumstances on which the Cuban request was based.

Mr. VARGAS GOMEZ (Cuba) said that Cuba had a plant devoted to the production of the articles specified. Foreign competition had forced that plant to close down in 1953, but it had been re-opened later only to be forced to close down again with detrimental effects to the Cuban economy. It could not now re-open unless tariff protection were provided. Before presenting this request his Government had probed the Agreement in vain to find an alternative means of giving the required protection. The Cuban Government was prepared to grant adequate compensation to the United States.

Mr. BARROW (Canada) said that Canada was not substantially interested in the item under discussion, but that he would like to make some general observations. In considering any request to modify concessions embodied in the Schedules, the Canadian Government had always in mind that the Schedules annexed to the Agreement were the greatest achievement of the CONTRACTING PARTIES. They represented the patient work of months if not years and represented a nice balance of mutually advantageous concessions the stability of which it was essential to maintain. While satisfaction should be given to reasonable requests for re-negotiation, such decisions should never be taken lightly. The fact that duties affecting the major part of the trade of the world had been bound had contributed greatly to sound and stable trading conditions. In the course of the review of the Agreement, the contracting parties should keep before them the necessity of preserving the balance of concessions. At the Eighth Session it had been recognized that special circumstances could make it difficult for some contracting parties to continue to bind the duties on particular items. It had not been envisaged by the CONTRACTING PARTIES, however, that any large scale modifications would ensue. His Delegation believed that sympathetic consideration should be granted to such requests but, at the same time, they felt that they should satisfy themselves in all cases that the circumstances out of which the request arose were truly exceptional, as laid down by the CONTRACTING PARTIES. The balance of the concessions had to be maintained because it was only in that way that damage to international trade could be avoided.

Mr. EVANS (United States) while not wishing to imply that the CONTRACTING PARTIES should not investigate whether the circumstances were exceptional or not, suggested that this was a case in which the country with whom the concession had been initially negotiated - the United States - had examined the situation and was prepared to renegotiate the item.

Mr. SINCLAIR (United Kingdom) said that the case appeared to him one of "injury" to an industry. While he did not wish to encourage resort to Article XIX he asked whether the applicability of that Article had been considered. He would like to know that it was not the intention of Cuba to submit further requests which, if the present one were granted, might embarrass the CONTRACTING PARTIES. He was thinking of the very meticulous attitude which the Committee had adopted towards the Indian request. They had feared at that time that the acceptance of the Indian request might open the door to a large number of applications. This had not happened and the Committee was, therefore, more sympathetic than if the application had been lodged earlier or than it would have been if the application had come only a short time after the prolongation of the assured life of Schedules.

Mr. VARGAS GOMEZ (Cuba) replied that they had especially studied Article XIX, but had concluded that its provisions did not apply to this case because the injury was not the result of the tariff concession, but of price changes in the world market after the item had been negotiated. As for the assurance which had been asked of him that no further requests of this kind would be made by his Government, he regretted he was not in a position to give such assurances because if similar circumstances should occur, they would certainly feel obliged to bring the matter to the CONTRACTING PARTIES.

Mr. SINCLAIR (United Kingdom) said he was not asking for any far-reaching assurance and declared himself satisfied. On the question of the applicability of Article XIX, however, he was still not quite convinced and would discuss the matter privately with the Cuban Delegation.

The Committee authorized the Government of Cuba to renegotiate the item indicated in document GATT/AIR/49. (SECRET).

Mr. SEIDENFADEN (Denmark) asked the Chairman whether the decision of the Committee would in any way prejudice the position of a contracting party as to its substantial interest in an unbound most-favoured-nation rate when it is proposed to renegotiate the bound preferential rate. If this were the case he would have to reserve his Government's position.

The CHAIRMAN replied that the decision on the Cuban request had been taken without prejudice to the question mentioned by the representative of Denmark. No ruling on the point raised had been given and all requests would be treated on an ad hoc basis. The reservation of the representative of Denmark would nevertheless be recorded.

(b) The United States Request

The CHAIRMAN recalled that the circumstances of this request had been explained and that the Netherlands and the United Kingdom had claimed substantial interest.

Mr. EVANS (United States) pointed out that the statistics circulated in document SECRET/13 related to a classification which was broader than the item on which the United States were requesting renegotiation, and from those figures it was not clear whether the United Kingdom had an interest in the item.

Mr. SINCLAIR (United Kingdom) suggested that his Delegation could discuss the matter further with the United States Delegation and if, as was probable, there was no United Kingdom interest, their request would be withdrawn.

Mr. BARROW (Canada) said that his Delegation would not claim an interest in the item if it were understood that soles of neolite were not included.

Mr. EVANS (United States) said he could not exclude that possibility. If, however, it were so his Government would certainly recognize any interest that Canada might have.

Mr. SVEC (Czechoslovakia) asked for clarification on a procedural point. As the item had been originally negotiated with his Government he wished to know whether he was correct in assuming that the procedures contained in the last three paragraphs of the procedures were applicable.

The CHAIRMAN replied that under the Declaration of the CONTRACTING PARTIES of 27 September 1951, the United States was no longer under the obligation to apply the Agreement to Czechoslovakia and, therefore, there would be no obligation upon the United States to negotiate with Czechoslovakia.

The Committee agreed to authorize the United States to renegotiate the item requested in GATT/AIR/50 (SECRET).

(c) The New Zealand Request

Mr. PRENDERGAST (New Zealand) repeated that his Government did not wish to make any drastic changes in the items proposed for renegotiation, but certain adjustments had to be made since the structure of the tariff had not been designed to cope with present conditions. His Government had investigated other possibilities but had ruled them out: Article XVIII did not apply because there was no question of development of a new industry, and Article XIX did not apply because there had been no increase of imports. He could not give an undertaking that his Government would not again present such requests, but the Committee could be reassured by the fact that this was the first time his Government were approaching the CONTRACTING PARTIES since the present procedure was devised at the Eighth Session.

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After Mr. Svec (Czechoslovakia), Mr. Parboni (Italy), Mr. Singh (India), Baron Bentinck (Netherlands), Mr. Barrow (Canada) and Mr. Sinclair (United Kingdom) (on behalf of Hong Kong) had affirmed that their countries had substantial interest and would like to participate in the negotiations, and Mr. Prendergast (New Zealand) had said that his Government was prepared to consult with all countries having a substantial interest, the Committee agreed to grant New Zealand's request presented in GATT/AIR/51 (SECRET) and SECRET/12.

4. METHODS OF VALUATION

The CHAIRMAN recalled that at the Eighth Session the CONTRACTING PARTIES had instructed the Committee (G/57) to consider what aspects of valuation should be studied by the CONTRACTING PARTIES and to establish a programme of work. In view of the fact that the CONTRACTING PARTIES were going to review all the provisions of the Agreement, the Committee, before establishing a programme of work, might wish to recommend the completion of the examination of valuation methods which had been begun at the last Session and, in order that this could be done, to instruct the secretariat to obtain from the contracting parties further information concerning their valuation practices. The Committee might also wish to recommend that, in the review of the provisions relating to valuation, account be taken of the appropriate rôle of the CONTRACTING PARTIES and of the Customs Co-operation Council which also had some responsibility in this field from the point of view of customs technique.

Mr. DONNE (France) remarked that the valuation of goods, besides being of economic importance to all concerned, was one of the most difficult problems with which customs administrations had to deal. The protection afforded by ad valorem customs duties was expressed by two elements: the rate of duty and the value of the goods. The product of these two elements gave the amount of duty to be paid. Parties to tariff negotiations sometimes haggled over differences of one or two per cent, but the concessions obtained could be completely nullified by arbitrary valuation. There was, therefore, a need for common criteria, which did not mean merely a common definition of value, but also practical rules designed to ensure uniformity. Article VII of the General Agreement embodied some principles with regard to valuation but they were no more than recommendations. Studies should be continued in connection with the review of the Agreement and an effort made to ensure that recommendations were replaced by obligations. The example of the Brussels Convention, to which many countries had adhered, showed how international arrangements could be made in this field. France was prepared to support the Chairman's proposals.

Baron BENTINCK (Netherlands) associated himself with the statement of the French representative. The question was a difficult one but its solution was most important to world trade. He suggested that the CONTRACTING PARTIES appoint a group of technical experts to study the question.

Mr. EVANS (United States) said he would have been surprised if the working party at the Eighth Session concerned had been able to do fruitful work with the scant material at its disposal. He suggested that the best way to obtain useful results would be for the Executive Secretary to draft a questionnaire requesting the type of information which would be required for an examination of the problem. This draft questionnaire could be prepared by the Executive Secretary and submitted to the Ninth Session for examination and approval.

Mr. MACHADO (Brazil) having received from the Chairman the assurance that there was a provision in the Agreement (Article II:3) which debarred governments from so altering their methods of valuation as to impair the value of tariff concessions, said he was very doubtful whether the enquiry proposed would prove useful. Article II:3 closed any loopholes which might be available to anyone wanting to evade obligations under the tariff Schedules, and, in view of the unlikelihood that uniformity in valuation practices could be achieved, he suggested that there was no need for action in this field.

Mr. DUBOIS (Belgium) also supported the French delegate's statement. He agreed to the circulation of a new questionnaire, but on the condition that this was done promptly. In drafting the questionnaire the Executive Secretary should endeavour to obtain replies which would be comparable as between different countries and should bear in mind that a number of contracting parties had signed the Brussels Convention on Valuation, which had been in force for several months. The CONTRACTING PARTIES might then, at the Ninth Session, appoint a working party of experts as proposed by the Netherlands Delegation.

The EXECUTIVE SECRETARY, in reply to Mr. Evans (United States) affirmed that he would have no difficulty in preparing a questionnaire to be sent out within a few weeks.

The Committee agreed to authorize the Executive Secretary to draw up and circulate a questionnaire in order to obtain information for submission to the Ninth Session. It was also agreed to recommend that, in the review of the provisions relating to valuation, account be taken of the appropriate rôle of the CONTRACTING PARTIES and of the Customs Co-operation Council.

5. FEDERATION OF RHODESIA AND NYASALAND

The CHAIRMAN recalled that the Committee had been instructed to prepare the changes with respect to the Agreement consequent upon the Federal Government assuming responsibility for determining its policy in matters covered by the Agreement. He said the Executive Secretary was in touch with the Federal Government and would report to the Committee at its next meeting.

CLOSING OF THE MEETING

The CHAIRMAN reviewed the work done and said the Committee could be well satisfied with its deliberations. In addition to taking certain decisions and agreeing upon recommendations they had exchanged views on a number of important subjects which would occupy the attention of the CONTRACTING PARTIES at the Ninth Session and in the course of the review of the Agreement. He hoped that the representatives would report fully to their governments on all these matters so that delegations to the Ninth Session would be prepared for discussion of all items on the agenda.

The meeting closed at 5 p.m. on 3 August.