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GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

Intersessional Committee

SUMMARY RECORD

of the meeting held at the Palais des Nations, Geneva,
commencing at 10.30 a.m. on Thursday, 12 April 1956

Chairman: Mr. L. Dana WILGROSS (Canada)

- Subjects discussed:
1. Request by Chile for authority to renegotiate certain items in Schedule VII
 2. Request by the United States for authority to renegotiate an item in Schedule XX

1. Request by Chile for authority to renegotiate certain items in Schedule VII

Mr. OLDINI (Chile), referring to Secret/60 and the statistical addendum thereto, said that the evolution of the financial, economic and social situation of Chile had led his Government to undertake a fundamental reorganization of the entire economic and financial structure of the country. Chile had employed a team of economic and financial experts and on their advice exceptional measures extending to all sectors of the Chilean economy were being taken to provide the country with a new economic and financial set-up. In this process of reorganization it had not appeared possible to leave the whole tariff régime unmodified, and his Government accordingly desired to modify certain items in Schedule VII. Chile had not signed the Declaration of 10 March 1955 on the Continued Application of Schedules and was therefore free to enter into negotiations for the withdrawal or modification of concessions under Article XXVIII:1. As reported in L/365/Add.3, the delegate of Chile had informed the Executive Secretary in October 1955 that his Government did not intend to resort to the provisions of Article XXVIII, but this communication had not modified the legal position of Chile since no formula had been used which would have implied that his Government wanted to undertake a firm commitment. However, rather than have recourse to the provisions of paragraph 1 of Article XXVIII, the Government of Chile, bearing in mind the general interests of the contracting parties, preferred to submit a request, as it would do had it signed the Declaration, for authority to renegotiate certain items under procedures similar to those laid down in Article XXVIII:4 (Revised). Mr. Oldini thought his Government's application was justified by special circumstances and should be considered in the light of the second paragraph of the Notes and Supplementary Provisions relating to paragraph 4 of Article XXVIII (Revised).

Members of the Committee expressed appreciation that although the Government of Chile had not been in a position to sign the Declaration it had chosen to proceed as if it were legally bound. It was thought that Chile should be free to proceed as it wished, but several representatives wished it to be made clear that the Committee was not taking a decision which would prejudice the future interpretation of paragraph 4 or its supplementary provisions.

The CHAIRMAN, in summing up the discussion, proposed that the Committee should record its conclusion as follows:

"The Committee, having taken note of the circumstances described by the Chilean delegate, agrees that the Government of Chile is free to enter into negotiations on the items specified and to use procedures similar to those of Article XXVIII:4 (Revised). In so agreeing, the Committee takes no decision regarding the application or interpretation of paragraph 4 of Article XXVIII (Revised)."

This was agreed.

The CHAIRMAN said that a contracting party wishing to claim a "principal supplying interest" or a "substantial interest" in any of the items to be renegotiated should approach the Chilean delegation without delay; claims recognized by Chile would be deemed to be determinations by the CONTRACTING PARTIES, and in the event of a disputed claim the matter could be referred to the Committee.

2. Request by the United States for authority to renegotiate an item in Schedule XX

Mr. CORSE (United States) referred to his Government's memorandum, copies of which had been furnished by his delegation for distribution, requesting authority, under paragraph 2(a) of the Declaration of 10 March 1955, to enter into negotiations under the procedures of paragraph 4 of Article XXVIII (Revised) in order to modify a concession on an item in Schedule XX; the item concerned was "women's fur felt hat bodies", listed under heading 1526(a) of the United States Schedule, and the circumstances and reasons for wishing to modify the concession had been described during the informal discussion at the previous meeting of the Committee.

The concession on this item had been initially negotiated with the United Kingdom at Geneva in 1947; subsequently it had been modified in 1951 by action pursuant to Article XIX of the General Agreement and compensation had been negotiated with interested contracting parties. The matter had since been reviewed several times by the United States Tariff Commission, and in each case the earlier findings had been confirmed. In December 1955, however, as a result of extensive litigation, the United States Court of Customs and Patent Appeals had ruled that the description of fur felt hat bodies (in the notice of possible action pursuant to Article XIX and in the Presidential Proclamation giving effect to the modified duties) covered only those where the fur felt pre-existed the formation of the hat bodies. Most hat bodies were made without the fur felt pre-existing. The ruling of the Court, therefore, had substantially nullified the modification of the con-

cession and the United States Government considered that this situation warranted a determination by the CONTRACTING PARTIES that special circumstances existed within the meaning of paragraph 4 of Article XXVIII.

In the informal discussion Mr. Corse had also stated that the United States Trade Agreements legislation and in particular the procedure connected with the functioning of the Tariff Commission, made it advisable to renegotiate the item immediately instead of waiting for the expiration of the assured life of the schedules at the end of 1957, when the United States Government would have lost the larger part of its negotiating authority. If authority for renegotiation were granted, it was hoped the present complicated tariff structure could be replaced by a single ad valorem rate of duty.

Several members of the Committee supported the request as, in their opinion, "special circumstances" existed. The representatives of France and Italy said that their countries had principal supplying interests in this item. They drew attention to the high rate of duty which, under the application of the escape clause, had reached an average level of about 70 per cent. When the concession was modified in 1951 it had been hoped that the two United States manufacturers would be able to adapt themselves to a competitive market, and at the present Tariff Conference the French Government had even requested a concession on this item. The representative of Austria also claimed a principal supplying interest and said that in recent years Austrian exports had increased significantly.

The Committee considered that the circumstances described by the United States delegation constituted "special circumstances" in the sense of paragraph 4 of Article XXVIII, and therefore decided to grant the request for authority to renegotiate the item in accordance with the procedures and conditions laid down in that paragraph.

The CHAIRMAN said that any other contracting party wishing to claim a "principal supplying interest" or a "substantial interest" should approach the delegation of the United States.

The meeting adjourned at 12.40 P.M.