

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

IC/SR.27

26 September 1956

Limited Distribution

Intersessional Committee

SUMMARY RECORD

of the meetings held at the Palais des Nations, Geneva,
from 11 to 14 September 1956.

Chairman: on 11, 12 and 14 September - Mr. GARCIA OLDINI (Chile)
on 13 September - Mr. L. Dana WILGRESS (Canada)

- Subjects discussed:
1. Procedures for Elections.
 2. Commodity Problems.
 3. Votes required for granting Waivers.
 4. Anti-dumping and Countervailing Duties.
 5. French special temporary Compensation Tax on Imports.
 6. Application of Article XXXV to Japan.
 7. Trainee Programme.
 8. Affiliation to United Nations Pension Fund.
 9. Provisional Agenda for the Eleventh Session.
 10. Arrangements for the Eleventh Session.
 11. Meeting of Ministers.
 12. Request by New Zealand for Authority to Renegotiate.
 13. Request for extension of time limit in Article XIX:3(a) - United States Action on Linen Twelling.
 14. Next Meeting of the Committee.

1, Procedures for Elections (W.10/22 and L/490)

The Chairman recalled that the representative of Pakistan had put forward a proposal at the Tenth Session that a procedure should be established for elections held by the CONTRACTING PARTIES and that this had been referred to the Committee for study. The Executive Secretary had distributed several suggestions in L/490 to assist the Committee in its consideration of this matter.

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During the discussion several members expressed the view that, if possible, contests for office should be avoided, but that election procedures should not be formalized.

The Committee concluded that it was neither necessary nor desirable at the present time for the CONTRACTING PARTIES to lay down rigid rules for the conduct of elections. The Committee considered that the Note by the Executive Secretary should be referred to the CONTRACTING PARTIES for information, but that no decision as to its adoption should be taken at the Eleventh Session. The Committee decided to recommend that the CONTRACTING PARTIES, in the election of the Chairman and Vice-Chairmen, should proceed along the general lines indicated in the suggestion made by the delegate for Pakistan (W.10/22) at the Tenth Session, and accordingly a meeting of Heads of Delegations should be held at the opening of the Eleventh Session with a view to reaching unanimous agreement on nominations.

2. Commodity Problems (L/488 and IC/W/51)

The Chairman said that at the last Session a majority of the contracting parties had been in favour of continuing their efforts to reach an agreed text for a special agreement on commodity arrangements, that the CONTRACTING PARTIES had decided that intergovernmental discussions should continue between the delegations most concerned and that the Executive Secretary should organize any informal meeting that might be required; the CONTRACTING PARTIES had authorized the Committee to establish a drafting group, if this should seem justified, to prepare a final text of the agreement for action at the Eleventh Session. The Executive Secretary had kept in touch with the contracting parties principally concerned and had reported that at no time had there appeared to be sufficient basis for convening a meeting.

The Committee considered the report of the Executive Secretary and agreed that in the circumstances no useful purpose would be served by setting up a drafting group or by having a general debate at the Eleventh Session on the points of difference on the SACA. The Committee therefore decided to recommend that the CONTRACTING PARTIES should invite the delegations principally interested in this question to consult together early in the Eleventh Session with a view to considering:

- (a) whether it appears likely that agreement can be reached along the lines of SACA; or
- (b) if not, what alternative approaches to the question of commodity trade might be developed by the CONTRACTING PARTIES.

3. Votes required for granting Waivers (L/403 and L/459)

The Chairman recalled that the representative of Cuba at the Tenth Session had stated the view of his Government that the CONTRACTING PARTIES should not grant waivers from the obligations of Part I of the Agreement under the provisions of Article XXV:5(a) requiring less than a unanimous vote, and the Committee had been instructed to consider this question in the light of the Cuban statement (L/459) and of the analysis by the Executive Secretary, and report to the Eleventh Session "as to whether a sufficient foundation exists for the CONTRACTING PARTIES to go into the matter thoroughly at that time."

The Committee considered that the statement by the delegate of Cuba had served a useful purpose in underlining the importance of great restraint in the use of the waiver provisions of Article XXV, particularly when they affect the obligations contained in Part I of the Agreement. The Committee considered that it would be difficult and unwise to try to lay down special criteria for voting in respect of waivers affecting these obligations, particularly as similar caution would also be appropriate in dealing with waivers of other fundamental obligations such as those embodied in Articles XI and XIII. The Committee recommended, however, that the CONTRACTING PARTIES, taking into account the important considerations advanced by the Government of Cuba, should affirm their intention to proceed with caution in considering requests for waivers of obligations in Part I, or from other important obligations of the Agreement, and in particular to take appropriate measures to safeguard the interests of contracting parties in the following ways:

- (a) applications for such waivers should be considered only if submitted with at least thirty days' notice. It was recognized, however, that in exceptional cases calling for urgent action this requirement might, by general agreement, be relaxed;
- (b) in the interval afforded by such notice, the applicant contracting party should give full consideration to representations made to it by other contracting parties and engage in full consultation with them;
- (c) the CONTRACTING PARTIES when examining an application should give careful consideration to any representations that such consultations had proved unsatisfactory, and in general should not grant an application in cases where they are not satisfied that the legitimate interests of other contracting parties are adequately safeguarded;
- (d) the decision should include procedures for future consultation on specific action taken under the waiver and, where appropriate, arbitration procedures;
- (e) the decision should also provide for an annual report and, where appropriate, for an annual review of the operation of the waiver,

4. Anti-dumping and Countervailing Duties

The Chairman said that when the CONTRACTING PARTIES decided at the Tenth Session to ask governments to submit extracts of their legislation and regulations which provide for the levy of anti-dumping and countervailing duties it had been agreed that the information received would be referred to the Committee to consider what arrangements should be made for the discussion of this item and what preparatory work could be done; the statements received from governments had been distributed and the secretariat would prepare a summary. The Committee considered that, in view of the nature of the subject, it would be desirable for the CONTRACTING PARTIES to arrange for informal consultations between the experts of the interested contracting parties before any decision is taken as to the procedure to be adopted for dealing with the matter.

5. French Special Temporary Compensation Tax on Imports (L/495)

The Chairman recalled that under the Decision of 30 November 1955 the French Government was required to report to the Committee on measures taken to implement the undertakings and recommendation of the earlier Decision of 17 January 1955; the report by the French Government had been distributed. Several members thanked the French delegate for his Government's report but, while noting the progress made towards the abolition of the tax, expressed their concern that the tax was still applied to many products and had an adverse effect on their trade. A number of representatives requested supplementary information.

The representative of France stated that he was submitting to the secretariat for distribution a list of the products to which the tax had been applied prior to 1 April 1955 and on which the tax was still maintained at the original rate, and also a list of the items subjected to the tax in April 1956. He agreed to report to his Government all cases in which it was claimed that the tax had restrictive effects on the trade of other contracting parties.

The Committee decided to submit the report, together with such additional data as might be available, for consideration at the Eleventh Session.

6. Application of Article XXXV to Japan

The Committee heard a report from the representative of Japan on his Government's consultations with some of the contracting parties concerned and agreed that it would be desirable that this item appear on the Agenda of the Eleventh Session so that the Japanese delegation would have a further opportunity to discuss the matter at that time in the light of such progress as had then been made. The representatives of Canada, Germany and the United States expressed the concern of their Governments at the present situation and hoped that progress would be reported during the Eleventh Session.

7. Trainee Programme (L/511)

The Committee considered the report by the Executive Secretary on the operation of the training programme in 1956. It was recalled that the Committee had been asked to recommend to the CONTRACTING PARTIES whether the programme should be continued so that, in the event of a favourable recommendation, the Executive Secretary could communicate with governments to obtain nominations for the training course in the first half of 1957.

Several representatives spoke highly of the advantages of the scheme in enabling young officials of underdeveloped countries to study commercial policy and to become better acquainted with the General Agreement. The Committee agreed to recommend that the scheme be continued and instructed the Executive Secretary to invite nominations.

8. Affiliation of the ICITO Staff to the United Nations Pension Fund

The Executive Secretary asked the Committee to consider a problem, described in his Report (L/509), which had arisen in his discussions with the United Nations Pension Board on the admission of the ICITO staff to the Joint Staff Pension Fund. At the last Session it had been agreed that the governments of contracting parties should take "whatever action they considered desirable in the United Nations in order to secure any amendments that might be necessary to the regulations of the Fund", but in the discussions it had been found that the Board was reluctant to admit the ICITO staff on the terms proposed. The Executive Secretary suggested that the difficulties might be overcome if the United Nations General Assembly were to guarantee, by way of an amendment or agreed interpretation of the present regulations, that when the ICITO is replaced by another organization the staff members transferred to that organization would continue as members of that Fund until such time as the successor organization itself became a member. He had raised the question in the Committee so that concerted action could be arranged at the forthcoming Assembly.

The Committee agreed that it was desirable that the representatives of contracting parties at the next Assembly should endeavour to obtain a decision or an agreed interpretation in the sense indicated.

The representative of the United States agreed to suggest to his Government that its representative should act as convenor of delegates of contracting parties attending the Assembly in order to arrange concerted action.

The Executive Secretary was asked to distribute a further explanatory note on the issues involved and to continue meanwhile his examination of alternative schemes.

9. Provisional Agenda for the Eleventh Session (IC/W/52 and 56)

The Committee then proceeded to examine other questions likely to arise at the Eleventh Session, as listed by the Executive Secretary in IC/W/52, and new items proposed by members of the Committee listed in IC/W/56. The Committee considered the documentation available and what preliminary work might be undertaken to facilitate or expedite the discussions at the Session. The following items were the subject of special comment.

(a) European Customs Union

The Committee was asked to consider whether the resolution submitted by the Council of Europe (L/500), suggesting that the CONTRACTING PARTIES should study the question of the formation of a customs union of the member countries, should be included in the Provisional Agenda. During discussion reference was made to the studies conducted by Benelux, France, Germany and Italy on the establishment of a common market or customs union for the six countries; the report submitted by a committee was being examined by the six governments in Brussels and it was suggested that the CONTRACTING PARTIES might invite a representative to the Eleventh Session to report on progress. Reference was also made to the Resolution of the Council of the OEEC setting up a working party to study the possibility of establishing a free-trade area to include the countries of the proposed union and other OEEC members. It was suggested that close liaison between that working party and the GATT secretariat should be established so that the CONTRACTING PARTIES could be kept informed of developments before commitments were entered into which might cause difficulties in the future.

The Committee agreed to include in the Provisional Agenda an item entitled "Proposals for Closer Economic Integration of Europe by the Formation of a Customs Union and/or Free-Trade Area" and to recommend that during the Session the CONTRACTING PARTIES should consider ways and means of keeping themselves informed on a continuing basis of developments in Brussels and Paris. The Executive Secretary was instructed to distribute to contracting parties the Committee report on the customs union of the six countries and the Resolution and related Decision of the Council of the OEEC on the study of a free-trade area. The Committee also agreed to recommend that this item should be considered together with "Plans for Tariff Reduction".

(b) Chairmanship of ICCICA (L/518)

The Committee agreed to recommend that the CONTRACTING PARTIES should meet the request of the United Nations to nominate early in the Session the Chairman of ICCICA for the ensuing period. 25 October was suggested as a date for taking this item.

(c) Restrictive Business Practices

It was recalled that this item was included in the Provisional Agenda at the request of the Government of Norway. The representative of Germany said that the discussion on this subject in the Economic and Social Council had been suspended, but that his Government wished to have further consideration by the CONTRACTING PARTIES and would submit a paper.

(d) Balance-of-Payment Import Restrictions

(i) Intensification of Restrictions The Executive Secretary stated that he had intended issuing a note on changes introduced by contracting parties since the Tenth Session in the restrictions maintained under Article XII, Paragraph 6 of the Intersessional Procedures provided that any contracting party intensifying its import restrictions should furnish detailed information, but this rule had generally been disregarded and even when the secretariat had addressed a direct enquiry to a government concerned the response had been disappointing. For this reason he had not issued the note and he suggested that the working party on balance-of-payments restrictions at the Eleventh Session should be asked to enquire into ways and means of effectively implementing paragraph 6 of the procedures. It was agreed to recommend that this question be referred to the working party.

(ii) Consultations under Article XII:4(b) The representative of the United States said that his Government wished to propose, as a new item for the agenda, that the CONTRACTING PARTIES should invite governments restricting imports pursuant to Article XII to enter into consultations under the first part of the first sentence of Article XII:4(b); he said that a formal statement explaining the basis of the request and suggesting the matters on which consultations should take place would be submitted and at the Eleventh Session the CONTRACTING PARTIES could, in consultation with the International Monetary Fund, consider the timetable and other arrangements for carrying out such consultations in 1957.

The Canadian representative supported this proposal saying that the time was opportune for an examination of the remaining balance-of-payments restrictions.

(iii) Report under Article XIV:1(g) The Chairman urged those contracting parties which had not yet submitted their replies to the balance-of-payments questionnaire to do so immediately so that the secretariat could prepare a draft of the Seventh Annual Report on Discriminatory Restrictions.

(e) Developments in OEEC Trade Liberalization

The representative of Australia, in proposing this item for inclusion in the Provisional Agenda, suggested that the secretariat should prepare a note on the following aspects of the liberalization programme of the Organisation for European Economic Co-operation:

- (a) recent developments in this field;
- (b) non-liberalized products - plans and prospects for their liberalization, and
- (c) the application of liberalization to contracting parties not members of OEEC.

The Committee instructed the Executive Secretary to prepare the proposed note as a basis for discussion.

(f) Waiver to the European Coal and Steel Community

The Deputy Executive Secretary said that the report by the member States would be received, as requested, three weeks prior to the Session. The Note by the Executive Secretary, however, would be delayed in order that statistical data could be furnished on a basis comparable to that of previous years.

(g) Samples Convention

The Committee agreed to recommend to the CONTRACTING PARTIES that they should urge contracting parties which had not accepted the Convention to do so as soon as possible, and ask the Secretary-General of the United Nations to recommend acceptance by non-contracting parties. With reference to the question of an interpretation of Article III of the Convention, which had been discussed at the Tenth Session, it was agreed that further discussion should be postponed pending consideration of the problem among members of the Customs Cooperation Council which had brought the question before the CONTRACTING PARTIES.

(h) Marks of Origin

Referring to the summary of laws and regulations to be prepared by the secretariat the representative of Germany asked that references to the studies of this subject by the League of Nations be included.

(i) German Turnover Tax as applied to Imports of Printed Matter

The representative of the Kingdom of the Netherlands proposed the inclusion of this item in the Provisional Agenda. The representative of Germany said that this question was being examined by his Government and requested that the item should not be brought forward for discussion until towards the end of the Session.

(j) United States Restrictions on Dairy Products

The representative of the Kingdom of the Netherlands said that the complaint of his Government under Article XXIII should appear again on the agenda of the CONTRACTING PARTIES.

(k) French Internal Tax on Automobiles (L/520)

The representative of the United States said that his Government wished to bring this new tax before the CONTRACTING PARTIES as it involved discrimination against United States products and impaired benefits to which the United States was entitled under Article II.

(l) Brazilian Tariff and Schedule

The representative of Brazil said that a new customs tariff had been submitted for the approval of the Brazilian Congress and that a number of problems were involved, including the renegotiation of concessions in the Brazilian Schedule, which his Government wished to bring before the CONTRACTING PARTIES. He asked that the item should come up for discussion some ten days after the opening of the Session.

(m) Rhodesia and Nyasaland Tariff (L/519)

The observer for the Federal Government of Rhodesia and Nyasaland explained the problem set forth in his Government's communication which led to the proposal to make the Federal tariff applicable uniformly to the whole of the Federation; it appeared to his Government that, if the CONTRACTING PARTIES agreed, this problem could appropriately be dealt with according to the principles and procedures laid down in the Decision adopted at the Tenth Session.

(n) France-Tunisia Customs Union

The representative of France said that an explanatory statement by his Government would be submitted before the Session to assist the CONTRACTING PARTIES in examining the new customs union under the provisions of Article XXIV:7. In reply to an enquiry he offered to provide a list of tariff numbers so that contracting parties could compare the new tariff, which was based on the Brussels Nomenclature, with the tariff previously in force, and, if additional information were required, to ask his Government to send a tariff expert to the Session.

Further, the representative of France announced that his Government would probably submit a declaration to the Session sponsoring the admission of Tunisia as a contracting party pursuant to Article XXVI:4(c).

(o) Admission of Laos as a contracting party

The representative of France said that his Government had been applying the General Agreement to Laos since 1949 but now wished to sponsor the admission of Laos as a contracting party pursuant to Article XXVI:4(c); his Government's declaration would be submitted in a few days.

(p) Accession of Switzerland

The observer for Switzerland said that his Government wished to apply for provisional accession to the Agreement. It was agreed that this item should be included in the Provisional Agenda.

(q) Trade Restrictions on Orthopaedic Equipment (L/496)

The Committee agreed to include the Resolution submitted by the Council of Europe on the Provisional Agenda.

(r) Article XX:II (L/507)

The Committee agreed to include the proposal of the Executive Secretary on the Provisional Agenda.

(s) Other Business

The representative of the United States gave notice that his Government might submit for discussion a complaint about the Chilean luxury tax on automobiles.

10. Arrangements for the Eleventh Session(i) Hours of Meetings, etc.

The Committee agreed to recommend the same arrangements as were adopted for the Tenth Session, namely that meetings should be from 10 a.m. to 12.30 p.m. and from 2.30 to 5 p.m., that plenary meetings should generally be held in the afternoon, and that simultaneous interpretation should be provided for all plenary meetings.

(ii) Order of Business

The Committee agreed to recommend the following dates for the plenary discussions and establishing of working parties on certain items:

Friday, 12 October - Schedules
and
Budget

Monday, 15 October - Belgian Waiver
and
Balance-of-Payment Questions

Monday, 22 October - European Coal and Steel Community Waiver
and
Customs Administration Questions.

11. Meeting of Ministers

The Executive Secretary referred to the letter he had addressed to contracting parties in April 1956 suggesting that at the Eleventh Session, and as a regular procedure thereafter at annual sessions, the first few days should be devoted to an exchange of views at ministerial level. Elaborating this proposal, he said that in his opinion the presence of ministers at the sessions of the CONTRACTING PARTIES would contribute towards a more effective operation of the General Agreement; if contracting parties accepted the GATT as the principal international forum for the discussion of trade matters there should be an annual meeting of trade ministers, and, even if no major problems arose from the discussion of items on the agenda, their attendance, as at annual meetings of other organizations, would be justified by the opportunity it would afford for an exchange of views. Such discussions, he suggested, could lead to more cooperative action among contracting parties and would be of particular benefit to underdeveloped countries which have special problems in commercial policy. However, instead of arranging for the attendance of ministers at the opening of the session he now suggested that ministers might attend shortly before the end of the session, say from 12 to 16 November, in order to take the final decisions on important issues and, possibly, to give directives for the work of the CONTRACTING PARTIES.

Several members of the Committee supported this proposal and indicated that their governments could arrange to be represented at ministerial level. Some, on the other hand, doubted whether the items on the agenda for the Eleventh Session warranted the attendance of ministers and also whether such attendance should be adopted as a regular practice. Some representatives of European countries indicated that their trade ministers would be interested in attending sessions of the CONTRACTING PARTIES provided ministers from countries outside Europe would also be present. There was also some discussion as to whether it would be more beneficial for ministers to attend at the opening or towards the end of sessions.

The Executive Secretary then suggested that if ministers were to attend sessions a special agenda should be submitted to them and that for the Eleventh Session such an agenda might include a discussion of progress in the expansion of international trade, obstacles to further progress and the possibilities of achieving progress through international cooperation particularly through the GATT, and, in addition, consideration, following preliminary work at the official level, of the decisions to be taken on some of the principal items on the sessional agenda such as the consultations under Article XII:4(b) proposed by the United States, the European customs union and/or free-trade area, the accession of Switzerland, the new Brazilian tariff, disposal of surpluses, and the position of GATT in relation to trade in primary commodities.

The Committee considered that insufficient information was available as to the readiness of ministers to attend the Eleventh Session and that a decision should therefore be postponed until the next meeting of the Committee

on the day prior to the opening of the Session. The Executive Secretary was instructed to send a further communication to the contracting parties enquiring whether, on the basis of an agenda such as he had proposed, their trade ministers would be willing to attend during the week commencing 12 November, so that at its next meeting the Committee would be able to take a decision and, in the event of an affirmative decision, to finalize the agenda for the discussions.

12. Request by New Zealand for Authority to Renegotiate (SECRET/70)

The observer for New Zealand presented his Government's request, pursuant to paragraph 2(a) of the Declaration of 10 March 1955, for authority to enter into negotiations under the procedures of Article XXVIII (Revised) for the withdrawal of two items in Schedule XIII which had been initially negotiated with the United States. He said that this request was submitted in order that changes in the classification and rates of duty might be made as a result of public tariff enquiries conducted by the New Zealand Board of Trade and of Government decisions on the recommendation of the Board. With reference to the first item, he said that the proposed modifications would result in increased duties on only part of the item and that this would be amply compensated by reductions within the same main tariff item which was to be extensively revised in nomenclature and arrangement. As for the second item, he explained that the classification was being modified and that only some of the goods would bear increased duties while others would benefit by reductions. This request was submitted for consideration in the light of Note 2 to paragraph 4 of Article XXVIII (Revised) in the belief that the action proposed would not contribute substantially towards such an increase in tariff levels as to threaten the stability of GATT concessions or lead to undue disturbance of international trade.

The Committee agreed that special circumstances existed in the sense of Article XXVIII:4 (Revised) and that authority should be granted to New Zealand for the proposed negotiations.

The Chairman then enquired whether any contracting parties represented at the meeting considered that they had a "principal supplying interest" or a "substantial interest" in either of these items. The representatives of Germany and the United Kingdom said that their Governments claimed a substantial interest in both items; the representatives of India and Pakistan indicated an interest in the first item and the representative of the Kingdom of the Netherlands, on behalf of the Benelux Governments, in the second item. The observer for New Zealand said that these claims would be examined by his Government in consultation with the contracting parties concerned.

The Chairman then instructed the Executive Secretary to inform contracting parties not represented at the meeting of the decision taken and that any claim of "principal supplying interest" or "substantial interest" should be addressed without delay to New Zealand. If New Zealand recognized the claim this would be deemed a determination by the Committee, and if no agreement could be reached the matter could be referred to the Committee.

13. Request for extension of time limit in Article XIX:3(a) - United States Action on Linen Towelling

The representative of the United Kingdom referred to the action of the United States Government on 26 July in suspending the concession and increasing the rate of duty on certain items of towelling by invoking Article XIX. He said that his Government had claimed a substantial interest in this item and that the two governments were considering the possibility of reaching a mutually satisfactory arrangement on the basis of compensation as an alternative to retaliatory action; as it seemed improbable that the consultation would be completed within the time limit specified in Article XIX:3(a) for the suspension of equivalent obligations or concessions, his Government requested an extension so that the ninety-day period would run from the date of the conclusion of the consultation.

The representative of Belgium stated that the Benelux Governments wished to be associated with the United Kingdom request as they were also interested in this item. He added that the Benelux Governments were not satisfied that the requirements of Article XIX had been complied with as the duties had been increased from 10 to 40 per cent on a product in the production of which only eighty workers were employed.

The representative of the United States said that his Government was aware of the difficulties of concluding the consultations within the prescribed time limit and would support the request for an extension. In reply to the Belgian representative, he said that his Government considered that it had acted in accordance with the provisions of Article XIX.

The representatives and observers of twenty-four contracting parties present at the meeting approved the following decision:

CONSIDERING that on 26 July 1956 the Government of the United States took action under Article XIX to raise the rates of duty on linen towelling bound under item no. 1010 in Schedule XI,

CONSIDERING that the United States Government is consulting with other contracting parties in respect of this action with a view to reaching agreement on compensation, and

CONSIDERING that the said consultations may not have been completed in time for a government to avail itself, in the event of failure of the consultation, of its right to suspend equivalent obligations or concessions pursuant to paragraph 3(a) of Article XIX,

The CONTRACTING PARTIES

DECIDE that the ninety-day period prescribed in Article XIX:3(a) shall begin to run as from the date of the completion of any such consultation.

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The Decision was therefore approved by two-thirds of the contracting parties, and the Executive Secretary was instructed to submit it to those not represented so that they would have an opportunity to record their votes.

14. Next Meeting of the Committee

The Committee agreed to meet again at 2.30 on Wednesday 10 October, the day before the opening of the Eleventh Session.