

GENERAL AGREEMENT ON
TARIFFS AND TRADE

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1960-61 TARIFF CONFERENCE
Tariff Negotiations Committee

PROCEEDINGS OF THE NINTH MEETING IN ORDINARY SESSION

Held at the Palais des Nations, Geneva,
on Friday, 12 May 1961, at 10 a.m.

Chairman: Mr. E. WYNDHAM WHITE

- Subjects discussed:
1. Termination of negotiations under Article XXIV:6
 2. "Dillon" Round
 - (a) Date
 - (b) Composition of the Tariff Negotiations Committee
 - (c) Agenda for the provisional Tariff Negotiations Committee
 3. Report of Working Party on examination of common tariff under Article XXIV:5(a) (TN.60/11)

1. Termination of negotiations under Article XXIV:6

The Chairman recalled that at the meeting of 5 May the representative of the Commission had informed the Committee that they had exhausted all their possibilities of negotiation and that they considered they had fulfilled their obligations to seek agreement under the procedures of Article XXVIII. The Commission therefore considered that the negotiations were terminated and the Member States were entitled to make the necessary changes to align their rates with those of the common tariff.

The Chairman said that on the basis of the results arrived at the negotiations could be divided into three categories:

- (a) those which had resulted in an unqualified agreement;
- (b) those which had resulted in an agreement with reservations; and
- (c) those in which no agreement had been reached.

He then described from the legal and the procedural point of view the situation which arose from the different sets of circumstances mentioned above. The substance of his statement would be circulated as a Note on the Termination of Negotiations under Article XXIV:6.

The Chairman expressed the hope that the negotiations which had not resulted in an agreement would find a satisfactory conclusion in the course of the "Dillon" negotiations. In this connexion, referring to the possibility of withdrawals of concessions under the terms of Article XXVIII:3, he suggested that the time-limit allowed by that paragraph for such action be made to coincide

with the conclusion of the "Dillon" round. The representative of the Commission thought that the proposal would be acceptable to the Community. It was agreed that, at the appropriate moment, there would be no great technical difficulties to the setting of a time-limit other than that provided for in Article XXVIII:3.

A representative referred to the danger that the withdrawal of concessions by a government might lead to counter-withdrawals and that a chain reaction might be set in motion which could result in the unravelling of the bulk of concessions contained in the General Agreement. He asked whether the Agreement provided for arbitration to avoid if possible a development which was in fact feared by all concerned. The Chairman said that the Agreement made no specific reference to arbitration in this case, but that it was clear from the text of Article XXVIII:3, which limited any action to "equivalent" concessions, that such action could not be based on a purely subjective judgment by the party concerned. Accordingly the action of any party which abused of its rights under this paragraph could be challenged and brought before the CONTRACTING PARTIES for judgment. He referred to paragraph 4 of the same Article as providing an example of such a judgment.

Certain representatives made statements on the position of their negotiations with the Commission.

The representative of Canada said that his delegation had recently been making steady progress at each meeting with the Commission. He referred to the problem which the Commission had itself excepted from its decision to terminate negotiations under Article XXIV:6 - the negotiations relating to an important agricultural item - and said that if this matter were settled, and one or two other problems cleared up, he would hope to be able shortly to enter upon phase II with a minimum of reservations.

The representative of Chile said that after improved offers had been received from the Community his delegation had been able to sign an agreement. They had not however obtained a reduction on one item of great importance in their export trade to one of the Six. They would consequently renew their request for more favourable treatment on this item at every opportunity and in particular in the forthcoming "Dillon" round.

The representative of Uruguay recalled the Commission's statement at the previous meeting that it honestly recognized that their offers to Uruguay might be regarded as inadequate. He still hoped however that it would be possible to reach a partial agreement within the situation referred to, i.e. that the Community's offers were inadequate.

The representative of Denmark said his Government regretted that the offers so far submitted by the Community to Denmark precluded her from signing an agreement. In view of the fact that the Community had admitted the inadequacy of these offers the Danish Government trusted that the Community would understand the position taken by her. In the view of the Danish Government the Community had not fulfilled her obligations under Article XXIV:6

with respect to Denmark. The offers so far presented would not to any appreciable extent compensate the tariff concessions which Danish exports now enjoyed within the EEC countries. Thus the Community had in the negotiations with Denmark failed to comply with the provisions of Article XXVIII:2 according to which a contracting party shall endeavour to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than hitherto provided for. As long as this situation of non-compliance with Article XXVIII:2 persisted the member Governments of the EEC would not, in the opinion of the Danish Government, be entitled to increase rates bound to Denmark or rates bound to other contracting parties for which Denmark had contractual rights. The Danish Government was however not contemplating at this stage withdrawals of concessions pursuant to Article XXVIII:3 and sincerely hoped that further negotiations in the course of 1961 would lead to a settlement satisfactory to both parties.

The representative of Nigeria said that his delegation had taken note of the Commission's statement. However the suggestion that agreements might be signed with reservation did not help them since no agreement had been reached. He wished to place on record that the failure to reach agreement was due to the Community's refusal to negotiate on list "G" and other items of importance to Nigerian trade, among which were items on which negotiation was refused pending settlement of the question of association of Overseas Territories. Despite this he still hoped that recourse to Article XXVIII:3 would not be necessary.

The representative of the Commission associated himself with the hopes expressed by the representative of Canada and Uruguay. He thanked the representative of Chile and assured him that serious consideration would be given to the problem which interested him. He did not dispute the fact that the Commission's offers to Denmark were not adequate and noted the statement of the representative of Denmark that withdrawals were not envisaged for the time being. The Community's offers would be maintained even in the absence of an agreement and would not be withdrawn unless such action were taken by Denmark. Despite the friendly atmosphere in which the negotiations with Nigeria were being conducted he thought it would be difficult to reach an agreement in the next few days. He hoped however that the "Dillon" round would result in a more satisfactory situation.

2. "Dillon" Round

(a) Date

There was general agreement that in the light of the position reached in the Article XXIV:6 negotiations it would now be possible to fix a date for the start of the "Dillon" round. The representative of the United Kingdom, in restating his Government's readiness to take part in the "Dillon" round, emphasized that this participation was contingent on the negotiations being genuinely multilateral and in particular on effective negotiations between the United States and the European Economic Community. It was agreed that the "Dillon" round would start on 29 May 1961 and that a reconstituted Tariff Negotiations Committee would meet that day to discuss procedural arrangements.

(b) Composition of the Tariff Negotiations Committee

The Chairman recalled that according to the rules of the Tariff Conference the Committee should in the second phase be composed of all governments which have submitted consolidated offers lists. However if this rule were strictly adhered to it would not be possible to arrive at a satisfactory composition until after the Conference had started. To meet the need for an operating mechanism from the beginning it was agreed that the Committee could meet provisionally with the following composition:

- (i) Countries which indicate to the secretariat that they are in possession of a consolidated offers list.
- (ii) Countries which have submitted lists of requests or have signified in writing their intention to participate in the "Dillon" round.
- (iii) Acceding countries.

(c) Agenda for the provisional Tariff Negotiations Committee

The Chairman suggested the following agenda for the first meeting of the provisional Tariff Negotiations Committee:

- (i) Election of Chairman
- (ii) Consolidated offers lists

This item would afford an opportunity to members of the Committee to make general statements on their offers such as that announced by the representative of the Commission on the Community's "linear" offer. Furthermore, as was customary, the Committee might wish to appoint a less formal body such as a Tariff Negotiations working party to examine procedural questions and discuss routine matters. With respect to the initial procedures for the exchanges of offers lists the Chairman, in order to gain time, made suggestions which would be circulated to contracting parties¹.

(iii) Arrangements for negotiations with acceding countries

The Committee would need to fix a date by which the negotiations of acceding countries could begin. Some were ready, others had reached an advanced stage of preparation; others still had problems which would have to be dealt with before the negotiations could begin. The Chairman, taking the situation into account, mentioned mid-June as a possible time for the start of these negotiations; it being understood that at the meeting of the Tariff Negotiations Committee on 29 May acceding governments would be represented and the necessary arrangements could be made in consultation with them. In particular, he referred to the note of the Irish Government which had been circulated in document TN.60/10, which indicated that the Irish Government would find it difficult to start negotiations until certain problems were settled. The Committee might decide to appoint a working party to examine this question as well as any similar problems relating to acceding governments.

¹Document TN.60/W.16.

(iv) Timing of negotiations with less-developed countries

The Chairman referred to the burden on less-developed countries of maintaining delegations in Geneva for the full duration of the Conference. He suggested that the Committee might make arrangements to concentrate these countries' negotiations at a particular point of time; he thought such a time might be somewhere about the half-way mark of the "Dillon" round.

3. Report of Working Party on the Examination of the Common Tariff of the EEC under Article XXIV:5(a) (TN.60/11)

At the beginning of the meeting the representative of Brazil referred to the order of the day for the present meeting which placed the fixing of a date for the "Dillon" round before the discussion of the report of the Working Party. He suggested that the report be taken before discussing the first point.

The Chairman said he had assumed the present order of the items on the agenda to be the logical one. Although the examination had been entrusted by the CONTRACTING PARTIES to the Tariff Negotiations Committee this did not mean that there was a real link between the examination and the negotiations. The transition from the first to the second stage would therefore take place quite independently of the examination of the common tariff under Article XXIV:5(a). It was true that the Tariff Negotiations Committee had to report to the eighteenth session on this matter, but this did not mean that important deliberations under the first point of the agenda should be held up.

The proposal of the representative of Brazil being unsupported in the Committee, the proposed order was maintained.

The representative of Brazil wished to explain why he felt that the report should have priority. He considered that the matter before them was one of the greatest importance to all contracting parties and quoted figures from page 20 of the report to show the extraordinary importance it had for his own country. The present exercise had to be carried out before the CONTRACTING PARTIES could take cognizance of the common tariff, and consequently, before tariff negotiations would be undertaken on that tariff. The Chairman's ruling therefore amounted to an interpretation of the General Agreement and as such he wished to have it recorded.

The Chairman replied he would not have it assumed that he had attempted an interpretation of the Agreement on this point. He shared the view that the matter before them was one of the greatest importance but he wished to make it clear that his remarks had a much more limited character. The CONTRACTING PARTIES had laid down procedural steps for this examination and had agreed that a final collective judgment could not be made on the level of the common tariff until negotiations under Article XXIV:6 had been completed. This was the reason why the Tariff Negotiations Committee whose function it was to follow the negotiations in detail was entrusted with the examination.

The time-table for the "Dillon" round, on the other hand, had been fixed without reference to the examination of the common tariff. Accordingly the Committee could not be precluded from making arrangements for the start of the "Dillon" round. As for an interpretation of paragraph 5(a) of Article XXIV, this was a matter which could only rest with the CONTRACTING PARTIES.

The Chairman of the working party (Mr. Lacarte) briefly referred to the salient points of the report which were those contained in paragraphs 15 and 16. As explained therein, the findings of the working party were necessarily tentative: the reasons why it was not possible to arrive at firm conclusions were stated in paragraph 15(a) and (b). It had however been possible to agree to the present report on the basis that it presented all points of view and would provide the Tariff Negotiations Committee with an opportunity to take such action as it thought necessary.

There being no discussion the report was adopted and submitted to the CONTRACTING PARTIES for consideration at the eighteenth session.