

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

REPORT OF THE AD HOC SUB-COMMITTEE OF THE TARIFF AGREEMENT
COMMITTEE ON PARAGRAPH 3 OF ARTICLE XXIV.

At its thirteenth meeting the Tariff Agreement Committee appointed a Sub-Committee with the following Terms of Reference:

"To examine the situation respecting the participation as full contracting parties of Burma, Ceylon and Southern Rhodesia and to submit recommendations, if this were decided upon, as to how the text of the General Agreement should be changed."

Representatives of the following Delegations were appointed members of the Sub-Committee:

Cuba
France
India
Netherlands
United Kingdom
United States.

M. ROYER (France) was elected Chairman.

The Sub-Committee had the benefit of being assisted by U. Nyun, Representative of Burma.

I. In order to be able to form a view with regard to the participation of Burma, Ceylon and Southern Rhodesia, the Sub-Committee requested the United Kingdom Delegate to submit information relating to the following points:

- (a) the ability of these territories to approve and modify their tariffs without requiring the consent of the United Kingdoms;
- (b) the ability of these territories to apply the General Agreement without reference to the United Kingdom;
- (c) the ability of these territories to enter into contractual relations on commercial matters with foreign Governments, including any examples of such contractual relations;
- (d) the position of the representatives of these territories during the present negotiations, including an indication of any changes in their position which may have occurred during the course of the negotiations.

RESTRICTED

E/PC/T/198
page 2.

Information on these points, supported where applicable by documentary material, was supplied to the Sub-Committee by the United Kingdom Delegate. Supplementary explanations were given by Mr. U. Nyun for Burma and by members of the United Kingdom Delegation in respect of Ceylon and Southern Rhodesia.

On the basis of this information, the Sub-Committee arrived at the following conclusions :

Burma:

Questions (a), (b) and (c) can be answered in the affirmative. Burma has concluded a Commercial Agreement with the Union of South Africa on 14 November 1938 and a Trade Agreement with India on 3 April 1941. At Geneva, Burma has carried on, and in several cases already completed, negotiations with other countries.

Ceylon:

The constitutional situation of Ceylon is at present in a fluid state. In November next an already enacted constitution (the Soulbury Constitution) will become operative, under which Ceylon will be able to conclude trade agreements with other members of the British Commonwealth of Nations. The United Kingdom Secretary of State for the Colonies has announced that it is proposed to introduce a Bill during this year giving Ceylon full self-governing status within the British Commonwealth. Furthermore, the United Kingdom Government is agreeable to Ceylon concluding trade agreements with foreign governments.

Paragraph 1 of Article 13 of the Trade Agreement between the United Kingdom and India of 20 March 1939 reads :

"1. The Government of India will, as soon as may be after the conclusion of this Agreement, enter into negotiations with the Government of Ceylon regarding the trade relations between India and Ceylon."

This implies, in the view of the Sub-Committee, the recognition by the United Kingdom Government of the right of Ceylon to enter into negotiations with India.

At Geneva, Ceylon has carried on, and in several cases completed, tariff negotiations with other countries.

In the light of these facts it appears to the Sub-Committee that Ceylon possesses de jure the abilities mentioned in questions (a) and (b). As regards the abilities referred to in question (c), Ceylon, at the present moment, exercises these abilities de facto, but it is already envisaged that it will obtain these rights legally in due course.

Southern Rhodesia:

The answers to questions (a), (b) and (c) are in the affirmative. Southern Rhodesia has concluded a Customs Agreement with the Union of South Africa in 1930 and a Trade Agreement with the United Kingdom on 20 August 1932.

With regard to question (d), Southern Rhodesia has not proceeded with tariff negotiations at Geneva because there did not appear to be a basis for the conclusion of a Tariff Agreement.

The United Kingdom Delegation, on behalf of the Government of the United Kingdom, has expressed its willingness to make a Declaration to the Tariff Agreement Committee establishing the ability of Burma, Ceylon and Southern Rhodesia to enter into and fulfil all obligations under the General Agreement on Tariffs and Trade. The text of this Declaration is attached as an Annex to this Report.

Having carefully considered all the relevant facts, the Sub-Committee unanimously agreed to recommend to the Tariff Agreement Committee that

Burma, Ceylon and Southern Rhodesia, according to their status de jure and/or de facto, can be admitted to participate as full contracting parties to the General Agreement on Tariffs and Trade,

and that the consequential changes be made in the Preamble and the Protocols to the Agreement.

II. On Article XXIV (Now proposed XXVI) the Sub-Committee agreed to recommend

1. that sub-paragraph 3 (b) as contained in document E/PC/T/189 should be deleted;
2. that sub-paragraph 3 (a) should become a full paragraph (and in view of the addition of a new paragraph 3 decided upon at the Thirteenth Meeting of the Tariff Agreement Committee should be identified as paragraph 4) and read as follows:

"Each Government accepting this Agreement does so in respect of its metropolitan territory and of the other territories for which it has international responsibility; Provided that it may at the time of acceptance declare that any separate customs territory for which it has international responsibility possesses full autonomy in the conduct of its external commercial relations and of the other matters provided for by this Agreement, and that acceptance does not relate to such territory; Provided further that if any of the customs territories on behalf of which a contracting party has accepted this Agreement possesses or acquires full autonomy in the conduct of its external commercial relations and of the other matters provided for by this

RESTRICTED

E/PC/T/198
page 4

Agreement, such a territory shall, upon sponsorship through a declaration by the responsible contracting party establishing the above-mentioned fact be deemed to be a Contracting Party".

III. The Sub-Committee agreed to recommend a consequential change in Article XXXI (now proposed XXXIII) which should be amended to read:

"A Government not party to this Agreement or a Government acting on behalf of a separate customs territory x, may accede to this Agreement on its own behalf or on behalf of that territory on terms to be agreed between such Government and the contracting parties."

The Sub-Committee wishes to draw the attention of the Tariff Agreement Committee to the fact that the use of the term "contracting parties" in this Article implies the need for unanimous decision on the accession of new parties to the Agreement.

X Note: Subsequent to the meeting of the Sub-Committee the United Kingdom Delegate suggested that at this point the following words should be inserted: "possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for by this Agreement".

Annex

The Executive Secretary to
the Preparatory Committee of the
United Nations Conference on
Trade and Employment

Geneva ↑

The United Kingdom Delegation is authorized by His Majesty's Government in the United Kingdom to make the following declaration with regard to the status of Burma, Ceylon and Southern Rhodesia with the view to the participation of these territories, as full contracting parties, in the General Agreement on Tariffs and Trade, by reference to the following questions:

- (a) Are these territories able to approve and modify their tariffs without requiring the consent of the United Kingdom?
- (b) Are these territories able to apply the General Agreement without reference to the United Kingdom Government?
- (c) Are these territories able to enter into contractual relations on commercial matters with foreign Governments, including any examples of such contractual relations?
- (d) What is the position of the Representatives of these territories during the present negotiations, including an indication of any changes in their position which may have occurred during the course of the negotiations?

Burma

The answers to Questions (a), (b) and (c) are in the affirmative.

As regards question (c), His Majesty's Government in the United Kingdom recognizes the right of Burma to enter into such contractual relations. Burma has, in fact, entered into commercial agreements with the Union of South Africa in 1938 and

with India in 1941.

As regards question (d), the Representatives of Burma have completed tariff negotiations on their own behalf with other countries at Geneva.

Ceylon

Question (a): The answer is in the affirmative.

Question (b): The answer is in the affirmative. ;

Question (c): In November next the Soulbury Constitution will become operative in Ceylon, under which her present de facto right to conclude trade agreements with other members of the Commonwealth will become a de jure right. Further, His Majesty's Government in the United Kingdom is agreeable to Ceylon concluding trade agreements with foreign countries. The Secretary of State for the Colonies has announced that it is proposed to introduce a Bill during this year giving Ceylon full self-governing status within the British Commonwealth. Article 13 of the Trade Agreement of 1939 between the United Kingdom and India implies the right of Ceylon to negotiate with India in regard to trade relations.

Question (d): The representative of Ceylon has completed tariff negotiations on behalf of Ceylon with other countries at Geneva.

Southern Rhodesia

Questions (a), (b) and (c): The answer is in the affirmative. Southern Rhodesia concluded a Customs Agreement with the Union of South Africa in 1930 and a Trade Agreement with the United Kingdom in 1932.

Question (d): Tariff negotiations at Geneva were not proceeded with in the absence of a basis for the conclusion of a Tariff Agreement.

The United Kingdom Delegation is further authorized on behalf of His Majesty's Government in the United Kingdom to sponsor the admission of Burma, Ceylon and Southern Rhodesia as contracting parties to the General Agreement on Tariffs and Trade.

15 September 1947

(signed) J.R.C. Helmore