

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

SR.7/16

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SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at the Palais des Nations, Geneva
on Saturday, 8 November 1952 at 2:30 p.m.

Chairman: Mr. Johan MELANDER (Norway)

- Subjects discussed:
1. Arrangements for Continuing Administration of the Agreement
 2. Report of Working Party 6 on the Budget
 3. Report of Working Party 7 on Ceylon Application under Article XVIII
 4. Report of Working Party 8 on Netherlands Action Under Article XXIII:2 and Adoption of Formal Resolution
 5. Schedules: Report of Working Party 3; Second Protocol of Rectifications and Modifications
 6. Japanese Accession - Date of Meeting of Intersessional Committee to consider Questions arising in connection with Japanese Accession
 7. Date of Eighth Session

1. Arrangements for Continuing Administration of the Agreement (L/52/Add.1)

The EXECUTIVE SECRETARY said that certain changes to the existing intersessional procedures would be required. In the past provisions had only been made for the Intersessional Committee to handle unforeseen matters arising between sessions; the CONTRACTING PARTIES now intended to refer to it specific questions, some already partially discussed. To take account of this, he proposed the addition contained in paragraph 4 L/52/Add.1. The addition proposed in paragraph 5 of this document was to take account of the fact that the Intersessional Committee itself should deal with questions rather than establish separate working parties. The wording he proposed took account of the point raised by the New Zealand delegate that interested contracting parties should participate as full members of the Committee. In giving satisfaction to the request of the Italian Delegation, the provisions of paragraph 8 provided for working parties to be set up for matters carried over from the agenda of this Session. The provisions of paragraph 9 took account of the suggestion that when parties to a dispute agreed to accept as an arbitral award decisions of the Intersessional Committee, that procedure should be open to them, it being clear that such recommendations would be recommendations of the Intersessional Committee and not of the CONTRACTING PARTIES. Part II set out the importance of submitting agenda items and documentation in good time and of satisfactory liaison arrangements.

There was one other point the Executive Secretary wished to raise. The existing rules for airmail or telegraphic ballots during intersessional periods were confined by the title although not their contents to matters arising under Articles XII, XIII and XIV. In fact they had been used for other matters and he suggested that the words "for the purposes of procedure under Articles XII, XIII and XIV" be deleted from the title.

Mr. PRESS (New Zealand) referred to paragraph 9 and stated that a contracting party other than the immediately interested parties, might have an interest in the findings of the Intersessional Committee and that provision should be made to provide such contracting parties with the same rights as the interested parties.

The CHAIRMAN suggested the words "interested parties" in the fifth line of paragraph 9 be altered to read "the parties directly concerned and other interested parties".

M. PHILIP (France) referred to the word "important" in paragraph 6 and suggested that a more suitable wording be found to express the idea of complexity rather than importance.

The CHAIRMAN suggested that the word "complex" be substituted.

Mr. SVEC (Czechoslovakia) stated that the system for voting by telegraphic ballot would be clarified if different matters were clearly separated by paragraphs so as to simplify answering.

The CHAIRMAN said that the Executive Secretary would take note of this suggestion.

Mr. AHMAD (Pakistan) asked for clarification of paragraph 9 as to how recommendations of the Intersessional Committee concerning disputes and differences would be handled in case of disagreement. In reply, the EXECUTIVE SECRETARY referred to the rules for intersessional procedures contained on page 207 of basic instruments and Selected Documents where it was clearly provided that the Intersessional Committee could request the convening of a special session. Furthermore rule 1 of rules of procedure provided that any contracting party might request a special session which would have to be called if such a request were supported by a majority of the contracting parties.

The CONTRACTING PARTIES agreed to the resolution on intersessional procedures with the amendments to paragraphs 6 and 9, and to the amendment to the title of the rules regarding telegraphic and postal ballots.

2. Report of Working Party 6 on the Budget (L/56)

Mr. ADARKAR (India) introduced the report of the Working Party and referred to the recommendations contained in paragraphs 7, 11, 13, 15, 18 and to the draft Resolution.

Mr. SEIDENFADEN (Denmark) referred to Section VII of the report where the relative costs for simultaneous interpretation were given. He pointed out that the increased cost for simultaneous interpretation would be \$8,000. For small countries particularly, the burden of numerous international conferences was a heavy one both in the time of officials and in the expense. He estimated the cost to governments per week in Geneva as some \$30,000 - \$40,000. He suggested that the Executive Secretary consider this matter before the next session and if there were sufficient funds, perhaps the system could be tried then.

The CHAIRMAN said there were both advantages and disadvantages to simultaneous interpretation but that the matter might be left to the judgment of the Executive Secretary.

The CONTRACTING PARTIES adopted the report and the resolution contained therein.

3. Report of Working Party 7 on Ceylon Application under Article XVIII (L/62)

Mr. REISMAN (Canada) introduced the report and explained that it made it possible for the CONTRACTING PARTIES to take a decision on the Ceylon application at this Session. Although the matter had been handled more quickly than similar matters in the past, he assured the CONTRACTING PARTIES that the Working Party had been able to deal with all the items in a detailed and thorough manner and had investigated the implications for Ceylon and the impact on the trade of contracting parties and on trade in general. They had been greatly assisted by the fact that Ceylon had made available the Minister responsible for the operation of the Industrial Products Act and by the speed with which the representatives of Ceylon had provided all the information and supplementary data requested in great detail. Other members of the Working Party had been helpful in getting quickly the views of their Governments. Decisions by the CONTRACTING PARTIES were required on paragraphs 15, 19, 23 and 28. These were the items remaining after considerable modification of their application by Ceylon in the light of their own and the Working Party's consideration. The original

application had contained two items which were the subject of negotiated concessions. These had been withdrawn and consequently no further negotiations were required and the CONTRACTING PARTIES could take final action on the application.

Dr. KOELMEYER (Ceylon) expressed the appreciation of his delegation for the expeditious and understanding handling of the matter. It had been unfortunate that on three of the items concerned in the application, emergency action had to be taken before a decision by the CONTRACTING PARTIES. It was, therefore, of particular importance to Ceylon that a decision be taken at this Session.

The CONTRACTING PARTIES adopted the report and the recommendations contained therein.

4. Report of Working Party 8 on Netherlands Action under Article XXIII:2 and Adoption of Formal Resolution (L/61 and L/59)

The CONTRACTING PARTIES adopted the resolution on United States import restrictions on dairy products (L/59) which had been prepared to reflect the views expressed by delegations at the meeting held on 28 October.

Dr. TREU (Austria) introduced the report on the Netherlands action and said the question had been considered from the points of view of the appropriateness of the measure which the Netherlands Government proposed to take and of the reasonableness of the extent of the quantitative restrictions as proposed by the Netherlands Government. The Working Party felt that the measure proposed was not unreasonable but, in the light of considerations named during its meeting, recommended that the upper limit of the restriction to be imposed by the Netherlands should be 60,000 metric tons instead of the sum of 57,000 metric tons as had been previously suggested.

Mr. VERNON (United States) said that action under this paragraph of Article XXIII was closer to a judicial proceeding than under any provision of the General Agreement. The United States Delegation took note of the judicious spirit and of the constructive presentation of the case by the Netherlands Delegation. His delegation was prepared to accept the decision but in view of its nature, wished to be recorded as abstaining on the taking of the decision.

Dr. van BLANKESTEIN (Netherlands) said that his Government attached great importance to this case, mainly because it was the first time in the history of trade policy that the unfortunate process of measures and counter-measures was controlled to some extent by an international body. It was therefore important that provisions of Article XXIII:2 be strictly applied.

The Netherlands had requested not only an authorization to take certain regrettable measures but also that the CONTRACTING PARTIES should decide on the appropriateness of the measures proposed. This was a difficult decision for the CONTRACTING PARTIES and could not be taken on a purely statistical basis. He stressed that the compensatory measures proposed contained no advantage for the Netherlands economy. It was in fact an impossible comparison; between the trade that might have existed and the reduction of actual current trade. The fact was that United States export of wheat flour would continue despite the quantitative restriction in the same manner that the Netherlands had been able to find other markets for its cheese and butter. Since the damage to the Netherlands economy was the loss of dollar earnings thus setting back efforts by his country to make itself independent of outside help and import restrictions, it was difficult to measure the appropriateness of the measures the Netherlands proposed to take. The Working Party had accepted the statement as to the damage suffered by the Netherlands and had also considered the appropriateness of the retaliatory measure in relation to the attainment of the objectives of the Agreement. It was on the latter basis that the Working Party proposed an alteration in the figure suggested by the Netherlands Delegation so as to place a lower limit on amounts of wheat flour to be imported. His delegation would accept any recommendation of the CONTRACTING PARTIES. Dr. van Blankenstein emphasized that the retaliatory measure would be applied only so long as the United States restrictions continued in force. He said that he also, for the same reasons as the United States Delegation, would abstain from voting on the decision. *upper*

Mr. PRESS (New Zealand) wished to record that his delegation found the report unsatisfactory. New Zealand was vitally interested in this question and, in his view, the most serious fault of the report was the recommendation that the proposed Netherlands measure be changed so as to make it less restrictive, although the Working Party found, and this view was expressed in paragraph 6, that the measure proposed by the Netherlands was appropriate and not unreasonable. This did not seem to him to resemble a judicial process. The country which considered itself damaged must, in the first instance, be the best judge of the extent of the damage suffered. This principle had been recognized in the past by the CONTRACTING PARTIES, as for example in the report on the United States withdrawal under Article XIX of concession on fur felt hat bodies. This did not mean that the country suffering the damage should be sole judge of the compensatory action to be taken, but it did mean that the Working Party or the CONTRACTING PARTIES should accept as a basis for consideration the point of view of that country. If another country contested the extent of the damage the onus of proof must lie with it. The Working Party's report failed to show that the evidence produced to support the change recommended was satisfactory and indicated rather that no evidence was produced at all. This was an unsatisfactory report and an unsatisfactory basis on which to expect the CONTRACTING PARTIES to deal with future cases.

Mr. Press explained that he had just received instructions to seek approval for New Zealand to take compensatory measures. He was aware that this would not be practicable since the Session was nearly over but the decision on the Netherlands case would obviously be of great interest to his Government. Mr. Press wished to make it clear that he did not oppose authorization by the CONTRACTING PARTIES to the Netherlands to take the action proposed in the report. He only wished to express strong disapproval of the methods used in this case and the belief that the CONTRACTING PARTIES had no information on which to base a recommendation to reduce the compensatory measures proposed.

Mr. TONKIN (Australia) said that his delegation was interested in the approach of the Working Party and in its comments as contained in paragraphs 4 and 6 of the report. The representatives of the Netherlands and New Zealand had both used the word "precedent" in connection with this report. He wished to make it clear that Australia did not regard this as a precedent; at the most it should serve as a guide to the approach of the CONTRACTING PARTIES in future cases in determining the appropriateness of any measures proposed.

Mr. REISMAN (Canada) said that his delegation had already stated its view in the CONTRACTING PARTIES that the measures proposed by the Netherlands were appropriate and justifiable. He agreed with the principle enunciated by the representative of New Zealand that, in considering such measures, the CONTRACTING PARTIES must first base themselves on the proposal of the country damaged. Once that was done it was then appropriate to take account of all relevant considerations. It was difficult from the report before them to see what were the considerations that prompted the suggestion of a different measure as the distinction between the limit proposed by the Netherlands and the limit now proposed by the Working Party was all too fine. Apart from this comment, he would not object to supporting the recommendation of the Working Party.

Mr. VERNON (United States) stressed that this proceeding was under Article XXIII and not under Article XIX. The two Articles were drafted differently, presumably for different purposes and he could not therefore accept the suggestion that cases under Article XIX could serve in any way as precedents for cases under Article XXIII. The Working Party had proposed a change in the figure which benefited the United States by increasing the upper limit of the quantitative restriction on wheat flour. Mr. Vernon did not wish the CONTRACTING PARTIES to have any impression that this decision was not based on considerations placed before the Working Party and if the CONTRACTING PARTIES so desired he was prepared to present the case directly to the meeting.

Mr. SVEC (Czechoslovakia) thought the reservations that had been made to the Working Party recommendation reducing the extent of the compensatory measure, should logically have been followed by proposals to reimpose the original figure. It was important that the same principles should apply to large nations as to small and he supported the New Zealand statement. In his view the CONTRACTING PARTIES should discuss the reasons, if any, for changing the figure proposed by the Netherlands.

The CHAIRMAN said that the CONTRACTING PARTIES would take note of the statement of the Canadian delegate and of the reservations to the report of New Zealand and Czechoslovakia.

The CONTRACTING PARTIES adopted the report of the Working Party and the determination contained therein, subject to the reservations of New Zealand and Czechoslovakia. The Netherlands and the United States abstained.

Note:

A statement by the Chairman of the Working Party in reply to the foregoing discussion will be found in SR.7/17.

5. Schedules: Report of Working Party 3: Second Protocol of Rectifications and Modifications (G/29)

M. DONNE (France) introduced the report and said that the rectifications dealt with this year by the Working Party had been of minor importance. The only major change was the transposition of the schedule of the Belgian Congo and Ruanda Urundi, into the Brussels nomenclature. There was also a modification to the Note to item 55:(a)2 in Schedule II - Benelux. A Second Protocol of Rectifications and Modifications had been drawn up; a suggestion to incorporate withdrawals of concessions under Articles XIX, XXVII and XXVIII had not been upheld since they were considered to be of a ~~temporary~~ nature. The proposal by the German Delegation to give legal status to the Consolidated Schedules had been considered but found to present both legal and practical problems and the Working Party proposed that the Consolidated Schedules continue as a working document and be kept up to date with any changes to the authentic texts. M. Donne emphasized the importance of submitting proposals for alterations to the schedules in ample time for consideration by the contracting parties, and not, as had happened at this Session and in the past, very late in the Session itself.

Mr. HAGEMANN (Germany) stated that the proposal of his delegation to give a legal status to the Consolidated Schedules was intended to increase the clarity of the General Agreement for the benefit of the present and future contracting parties and for the administrations concerned. His delegation had however been impressed by the legal and practical difficulties adduced during the discussion of the proposal and agreed not to press its adoption. He noted with satisfaction the plan whereby the Consolidated Schedules were to be kept up to date.

The CONTRACTING PARTIES adopted the report of the Working Party.

6. Japanese Accession: Date of Meeting of Intersessional Committee to consider Questions arising in connection with Japanese Accession (L/60)

The CHAIRMAN referred to the report of the discussions between members of the Intersessional Committee and the representatives of Japan, and the suggestion that a meeting might be held in January to examine the question of Japanese Accession. The Chairman proposed 2 February as an appropriate date for the meeting of the Committee.

The CONTRACTING PARTIES agreed that the Intersessional Committee would meet on 2 February 1953.

7. Date of Eighth Session

The CHAIRMAN suggested that the Eighth Session of the CONTRACTING PARTIES be convened on 10 September 1953.

Mr. LECKIE (United Kingdom) preferred 17 September.

It was agreed that the Eighth Session of the CONTRACTING PARTIES would be convened on 17 September 1953.

The meeting adjourned at 4:40 p.m.