

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Ninth Session

SUMMARY RECORD OF THE THIRTIETH MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 January 1955, at 10.30 a.m.

Chairman: H.E. Mr. L. Dana WILGRESS (Canada)

- Subjects discussed:
1. German Import Duties on Starch and Potato Flour
 2. Greek Luxury Tax and Tariff Changes -
Report by Italy on consultations with Greece
 3. European Coal and Steel Community -
Report by Working Party
 4. European Coal and Steel Community - Request by
the Danish delegation for an item to be placed
on the agenda

1. German Import Duties on Starch and Potato Flour -
Statement by Benelux (L/260)

Baron BENTINCK (The Netherlands) said that the details of the Benelux case were outlined in document L/260. In a letter dated 31 March 1951, which formed part and parcel of the agreements reached at Torquay, the German delegation undertook to reduce duties on potato flour, starch and their derivatives to the corresponding Benelux level of 15 per cent. The first steps toward fulfilling that obligation had yet to be taken. The German delegation at Torquay had been unable to agree to the time schedule proposed by the Benelux delegations for the gradual reduction of these duties; they had given instead this written undertaking and expressed a willingness to discuss the implementation of these tariff reductions. The proposed negotiations, which were not to take place before the autumn of 1952, could thus only have as their object the decision as to the date and manner of bringing into force the German undertakings. The Benelux Governments had made repeated efforts to obtain the full benefit of the German concessions and had given the Federal Republic every opportunity to suggest a method of complying with this promise. A last appeal addressed to the Federal Republic

over three months ago had not to date succeeded in finding an acceptable solution. The Benelux Governments thus felt justified in bringing the matter to the attention of the CONTRACTING PARTIES and requesting them to make appropriate recommendations to the contracting parties concerned.

Mr. HAGEMANN (Federal Republic of Germany) referred to the letter of 31 March 1951 which stated that the Government of the Federal Republic would be willing to undertake, in the autumn of 1952, negotiations with the Governments of Benelux on the subject of a new lowering of the German duties on potato flour, starch and their derivatives with a view to applying as soon as possible in the new German tariff a duty of 15 per cent on starch and potato flour and analogous duties on their derivatives. The German delegation did not think that this letter could be interpreted as indicated by the Benelux note (L/260) in the sense that "the German delegation at Torquay agreed to reduce as soon as possible German import duties on potato flour, starch and their derivatives to the level of the duties applied by the Benelux." His delegation considered that the only undertaking involved was that to enter into negotiations with the Benelux Governments for the purpose of lowering these duties. These negotiations took place in March 1953 and February 1954 and unfortunately had reached no results. The exchange of letters, although it took place during the Torquay negotiations, was not incorporated in the schedule of multilateral concessions nor separately supplied to the secretariat. His delegation did not, therefore, consider this as an undertaking entered into within the framework of GATT. It was, however, prepared to take up the matter before the CONTRACTING PARTIES and, if they should decide to submit it to the Panel on Complaints, the German delegation would agree to this action and explain its case in detail before the Panel.

It was agreed to refer this question to the Panel on Complaints.

The CHAIRMAN announced that three of the original members of the Panel established in November, Mr. Jayasuriya (Ceylon), Mr. Johnsen (New Zealand) and Mr. Salvador Ortiz (Dominican Republic) had left Geneva. He proposed that they be replaced by Mr. Koelmeyer (Ceylon), Mr. Rattigan (Australia) and Dr. Priester (Dominican Republic).

The CONTRACTING PARTIES approved of the appointment of these three new members.

2. The Greek Luxury Tax and Tariff Changes -- Report by Italy on consultations with Greece

The CHAIRMAN recalled that this matter had already been discussed at the seventh meeting of the current Session when it had been agreed to retain the matter on the agenda to give an opportunity for consultations between Italy and Greece.

Mr. ANZILOTTI (Italy) was happy to report that as a result of the consultations undertaken between the two delegations an agreement had been reached on the following basis. With regard to the application of the luxury tax to artificial textile fibres, note had been taken of the fact that the Greek Government had already abolished the luxury tax on discontinuous artificial fibres and had already twice reduced the luxury tax on rayon articles. The Greek delegation had also informed the Italian delegation that its Government would continue to take measures in order to bring the luxury tax imposed on imported rayon products to the same level as that applied to national products as soon as possible and, if possible, on the occasion of the entry into force of the new customs tariff. This tax was applied on the c.i.f. value plus the customs duty but excluding other fiscal charges. With regard to the minimum duties established for certain textile products the Italian delegation took note of the undertaking of the Greek Government to forego the imposition of minimum ad valorem duties where they might readjust specific duties, and of the communication addressed to the Executive Secretary of 11 October 1954 stating that as a result of readjustment of the specific duty for item no. 242 B, the corresponding ad valorem minimum rate had been abolished. The Greek delegation had stated that the minimum ad valorem duties applied to unbleached textiles were not raised when applied to the same products bleached, dyed or figured, etc. On this understanding the Italian delegation accepted the ad valorem minimum rates in question.

With regard to cutlery the Greek delegation had explained that, given the criteria for classification followed in the application of duties on table knives, spoons and forks made of various types of special steel, the insertion of the new sub-item (c) under item 80, had not in fact changed the incidence of the duty applied to these articles. The same applied to the minimum ad valorem duty of 26.5 per cent applied to other products falling within item 80, where again the incidence of the specific duties in general was not lower than the minimum ad valorem duty except for certain cases. The Italian delegation in a spirit of compromise, recalling that any modification of a bound rate should be made in agreement with the interested contracting parties, had given its agreement to the changes made by the Greek Government to the duties for item 80.

Finally, with regard to eye-glasses, item 136, the consultations had shown that, in order to avoid the illegal traffic which had arisen out of the difference of classification of celluloid glasses and celluloid frames for glasses, it had been necessary to apply the same duty both to the glasses and the frames. It was for this reason that the duty, originally 450 drachmae for glasses, had been raised to 1,000 drachmae. The Italian and Greek delegations had reached an agreement on a single rate of 800 gold drachmae for both, no resort to be made to the possibility of adjustment provided by the Decision of the CONTRACTING PARTIES on 24 October 1953.

The Italian delegation thus considered this complaint settled.

Mr. GOERTZ (Austria) referred to his statement at the previous discussion of these measures taken by the Greek Government and to the fact that his delegation had then announced its interest in fibron. He had consulted with the Greek delegation in the meantime and had been given to understand that the luxury tax did not apply to such materials. The Greek representative had also informed the Austrian delegation that his Government intended to bind the new duties and that Austria was recognized as a principal supplier by Greece.

Mr. BITSIOS (Greece) associated himself with the statement made by the Italian delegate as to the agreement which had been reached. He wished to thank the Italian and Austrian delegations for their cooperative attitude during the consultations. The interested parties and the secretariat had been informed of the outcome.

The CHAIRMAN congratulated the parties to this consultation and thought that it once again demonstrated the usefulness of the CONTRACTING PARTIES as a forum for the settlement of such disputes. He thought the item could now be considered disposed of.

3. European Coal and Steel Community - Report by Working Party (L/305)

Mr. VARGAS GOMEZ (Chairman of the Working Party) introduced the report of the Working Party (L/305). It contained observations and views expressed by the Working Party or some of its members on the measures taken by the member States in accordance with the waivers granted in 1952 and on other aspects of the commercial policy of the Community and member States. The annex contained additional information submitted by the High Authority and member States, and other data of a confidential nature had been circulated separately to delegations. Mr. Vargas Gomez said that the first task of the Working Party, which had been comparatively simple, was to examine the specific measures taken by the member States during the period under review on matters covered by the waiver granted to them and to see whether the deviations from the GATT rules involved in those measures tallied with the conditions specified in the waiver. The Working Party had noted with satisfaction that the Common Market now applied to all products covered by the waiver and that all the measures taken relating to matters covered by the Decision of 10 November 1952 were consistent with the terms of the waiver.

The Working Party's second task was more complex and difficult. The 1953 Working Party that had examined the first annual report of the member States had tried to set a precedent by offering an opportunity to the representatives of third countries to have a full exchange of views with the representatives of the member States on the general aspects of the commercial policy of the Community. There was some difficulty this year in conducting the discussions of the Working Party along the same lines and some uncertainty among the members as to the precise scope assigned to it. The Working Party

was at times pressed to pass judgment on certain aspects of the commercial policy of the Community which related to matters not specifically covered in the terms of the waiver itself although referred to in the preamble of the Decision. Mr. Vargas Gomez said that on several occasions he was requested to give rulings on points which appeared to exceed the normal competence of a working party chairman. These uncertainties and difficulties had prompted the Working Party to suggest that it might be desirable to define more precisely, at the next Session, the terms of reference of the Working Party which would have to consider the third annual report.

When the waiver was granted in 1952 the representatives of many third countries had felt that definite assurances were necessary regarding the policy to be followed by the Community and considered that the preamble to the Decision contained such assurances. All members of the Working Party he thought, would subscribe to the principle that governments receiving a waiver from GATT obligations had incurred thereby certain responsibilities. Widely different opinions seemed to be held, however, as to the extent of the commitments entered into by the member States and the Community and as to the binding nature of the assurances given to them when the waiver was granted. It was suggested during the discussion that it might be useful to clarify the interpretation of the preamble to the Decision. Mr. Vargas Gomez felt that some members of the Working Party would prefer to reflect on this matter, however, before it was formally taken up by the CONTRACTING PARTIES.

This divergency of views on both the legal effects of the terms of the Decision and the precise scope of the examination by the Working Party influenced to a large extent the outcome of the discussions. It was possible for the Working Party to have a full exchange of views on all the points which it decided to consider. In certain instances it was fortunate enough to arrive at agreed statements; in others the Working Party had to record divergent views. For the reasons outlined above the Working Party had not felt called upon to reach general conclusions on the general aspects of the commercial policy of the Community; for instance, with regard to the question whether export prices charged by the Community were equitable or not. It addressed itself more particularly to the question of the way in which the interests of third countries both as suppliers and as customers of the Community had been protected or taken into account, and in the concluding part of the report it expressed certain views on the trends of commercial policy of the Community and on the general problem of the responsibilities of governments to which a waiver of obligations had been granted. Finally the Working Party made, in paragraphs 36 and 38, suggestions which it thought might facilitate the task of the CONTRACTING PARTIES in the future. In view of the importance which the question of export prices had had in the discussions this year, many members of the Working Party attached particular significance to the suggestion made in paragraph 35 regarding the desirability of expanding the section on prices in the Executive Secretary's note. This task could only be fulfilled successfully if the work were done in close collaboration with the High Authority and the Working Party heard with satisfaction that, subject to the limitations which the Treaty might impose on the High Authority, the organs of that Authority were prepared to facilitate the task of the Executive Secretary.

Mr. MACHADO (Brazil) said that his delegation attached considerable importance, at this time of reviewing the General Agreement, to clarifying certain aspects of the waiver. This waiver in practice had instituted a new preferential area within the Agreement, as was shown in the Community's price policy and in the fact that the Community's production was consumed within the member countries under an effective preference. The waiver had charged not only the member countries but the High Authority to supply the CONTRACTING PARTIES with information as to its application. When the High Authority addressed the CONTRACTING PARTIES it should, in the view of the Brazilian delegation, take particular account of the obligations of its members under the GATT, and not of their obligations in relation to the Treaty.

The differences in the interpretation which emerged clearly from the report of the working party must be settled. The CONTRACTING PARTIES should also give attention to the position of the member countries and the High Authority vis-à-vis cartels. It seemed clear to his delegation that the High Authority did not have sufficient authority with regard to cartels in order to fulfil the commitments of its member countries to the GATT, since its authority was limited, and it could only take a posteriori action. The question should be maintained on the agenda and the report presently before the CONTRACTING PARTIES used as a basis for a more careful study which would enable the CONTRACTING PARTIES to settle all the divergencies of interpretation.

The Brazilian delegation also wished to know whether the waiver would continue even if the Articles of the Agreement should be amended during the Review.

Mr. SIMPSON (United States) said that his delegation had found the discussions in the Working Party useful and supported the report. It would be a helpful basis for further consideration in advance of next year's review of the operation of the waiver. The United States attached importance to the interpretation of the waiver and agreed to the suggestion of some members of the working party (contained in paragraph 45 of the report) that the interpretation of paragraphs 2-6 of the Preamble merited further consideration by the CONTRACTING PARTIES. In an earlier discussion on this matter, the United States had expressed the view that the considerations in the Preamble should certainly be broadly interpreted and that it was appropriate for the CONTRACTING PARTIES to consider all matters brought before them under the Preamble. The present report would serve as a basis for the consideration of these questions by the governments before the Tenth Session. Mr. Simpson said that his delegation had noted with concern the anxieties expressed during the discussion by a number of third countries as to the policy and operation of the Community and had been reassured by the assurances given by the High Authority and the member States that they were aware of, and closely following the repercussions on third countries. The assurances given by the High Authority (and contained in paragraph 26 of the report) concerning exporters' agreements were useful in this connexion.

With regard to the point raised by the delegate of Brazil, the United States representative thought that there was no problem as to the powers of the High Authority as set forth in its Treaty, which were fully adequate, nor was it open to the CONTRACTING PARTIES to enter into a discussion of the Treaty. The question between the CONTRACTING PARTIES and the Community was how best to apply these powers in order to carry out the objectives of the Community in accordance with the obligations of its members under the General Agreement.

Mr. LARRE (France), representing the member States, stated that the representatives of the members and the observers from the High Authority had furnished the Working Party with all the information requested and had replied to all questions addressed to them, without considering in the first instance whether the various points raised were within the competence of the CONTRACTING PARTIES. To this extent the High Authority and member States had certainly gone beyond their strict obligations, and they had done this in a spirit of cooperation. The situation would of course be different if, instead of operating under the Agreement, the CONTRACTING PARTIES were operating under the Havana Charter which contained Articles relating to restrictive business practices but this was not the case. The conclusion of the Working Party's report was that the High Authority had acted within the terms of the waiver granted to it in 1952.

The Working Party had also undertaken to elucidate the action of the High Authority in the realm of prices and that of producers' agreements. During the exchange of views in the Working Party it had been possible to clarify the measures taken by the High Authority, the intentions of the member States, and the limits fixed by the Treaty on the action of the High Authority. Without entering into the details of the Articles of the Treaty, Mr. Larre thought it had been useful to draw the CONTRACTING PARTIES' attention, as the Working Party had done, to the fact that the powers of the High Authority with regard to the Members were limited, as were the powers of all international organizations, by the terms of the treaty under which it operated.

Finally, it had been suggested that the scope and methods of the CONTRACTING PARTIES in future consultations should be clarified. The representatives of the member States had no objections to this procedure, but he wished to underline that it was with the representatives of the delegations that the CONTRACTING PARTIES should pursue this clarification. The rôle of the secretariat to GATT was defined in paragraph 35 of the report.

In the name of the member States, Mr. Larre wished to thank the chairman of the Working Party and its members, as well as the representatives of the High Authority and the secretariat for their assistance.

Mr. GOERTZ (Austria) thought that discussion in the Working Party had brought out the problems of third countries in dealing with the Community and their consequent interest in the policies of the Community. Austria had its own particular problem which was not solved by the report, but the report nevertheless contained certain recommendations which might eventually

lead to assisting in the solution of these problems. The suggestion contained in paragraph 45 that the interpretation of the Preamble should be clarified before the next Session seemed to him valuable. Finally, he remarked that his delegation maintained its views as recorded in the Report.

Mr. SVEC (Czechoslovakia) said that already at the Seventh and Eighth Sessions his delegation had explained why, in their view, the Community was incompatible with the General Agreement. Their attitude continued the same, and they would abstain from voting on the report.

The CHAIRMAN thought the concensus of the meeting was in favour of adopting the report. The views of the Brazilian delegation concerning the need for further clarification were met by paragraph 45. It would be useful to have time for reflection on the precise scope of the Preamble, and he would suggest that this particular matter be taken up before the CONTRACTING PARTIES examined the Third Annual Report.

The CONTRACTING PARTIES adopted the report of the Working Party, and took note of the general remarks and conclusions set out in paragraphs 39 to 49. They agreed that the actions taken to date by the High Authority and the member States were consistent with the terms of the waiver.

4. European Coal and Steel Community - Request by the Danish delegation for an item to be placed on the agenda

Mr. SEIDENFADEN (Denmark) observed that the Working Party's report dealt only with the Second Annual Report of the member States of the Community (L/240). Since that report had been issued, certain increases had been made in the prices for exports to third countries. This was of concern to his Government. In the Working Party the member States had insisted that under the terms of the waiver the discussion must be restricted to the measures taken before 20 October. These increases in export prices had thus not been discussed by the Working Party. His delegation had already at the Seventh Session expressed concern that a situation might arise in the intervals between the discussion of the Annual Reports, to postpone consideration of which would have damaging repercussions on third countries. It was to meet this concern that the Working Party of the Seventh Session had agreed that, if urgent matters arose between Sessions with respect to the operation of the Decision, they might be considered by means of the intersessional machinery. The right therefore existed to convene the Intersessional Committee to consider this case. Since the CONTRACTING PARTIES were, however, now in session, Mr. Seidenfaden proposed that a new item be added to the Agenda of this Session for the consideration of the latest development in the export prices of certain steel products and the conformity of those prices with the obligations undertaken by member States.

Mr. LARRE (France) thought that the invocation of paragraph 14 of the 1952 Report, which established the intersessional procedures, in order to justify the request to place this item on the Agenda during the Session, was not appropriate. With regard to the request to place the matter on the Agenda, he wished to enquire whether it was possible for any contracting party to invite another who had raised prices on any particular product, to consult concerning the price change. The CONTRACTING PARTIES should in his view be very reserved before including special provisions inviting consultations in cases of price changes. Mr. Larre recognized that the Community had undertaken in the Preamble of the Decision to take account of the position of third countries, both as consumers and suppliers of coal and steel products and that this gave a limited basis to permit the opening of consultations in certain cases. The Working Party had suggested however that consideration be given to the interpretation of this clause. It would prejudice the discussion on this matter, which concerned a most delicate question of the scope of the powers of the CONTRACTING PARTIES in their relationship with the High Authority in the realm of prices, to take up the proposal of the Danish delegate at this point.

Mr. MACHADO (Brazil) said that again the basic question of interpretation had been raised. He was not able to give any views on the request of the Danish delegation before he saw the details of their case. The CONTRACTING PARTIES could neither decide whether to agree to place the matter on the Agenda, nor whether to examine the interpretation of the Preamble before doing so, until they had a statement of the matter from the Danish delegate.

Mr. BELFRAGE (Sweden) said that the Danish delegate had explained the nature of the developments and their impact on his country, and since he had stated that the repercussions were serious, it would seem contrary to the traditions of the CONTRACTING PARTIES to oppose placing the matter on the Agenda.

The CHAIRMAN asked the Danish delegate to circulate his statement before the discussion continued.

The meeting adjourned at 1.00 p.m.