

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Ninth Session

SUMMARY RECORD OF THE TWENTY-SEVENTH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 December 1954, at 10.30 a.m.

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

- Subjects discussed:
1. Definitive Application of the Agreement -
Proposal by the United Kingdom
 2. Commodity Questions
 3. New Item. Finnish Schedule XXIV:
Adjustment of Specific Duties
 4. Item 12: Complaints: Brazilian Compensatory Concessions
 5. Item 12: Complaints: Brazilian Internal Taxes
 6. Complaints: Peru - Prohibition of Imports from
Czechoslovakia - Statement by Czechoslovakia

1. Definitive Application of the Agreement - Note by the United Kingdom on
the Problem of existing Mandatory Legislation (L/299)

The CHAIRMAN referred to the note by the United Kingdom (L/299) concerning the measures inconsistent with Part II of the Agreement but required by mandatory legislation which the Protocol of Provisional Application permitted governments to continue to apply. The United Kingdom delegation considered that the discussion of definitive application of the Agreement under Article XXVI and other proposals relating to existing mandatory legislation would be facilitated if there were clearer information on the situation of individual governments, and proposed that contracting parties be asked to report no later than 15 January the relevant details of mandatory legislation requiring action inconsistent with certain provisions of the Agreement.

Mr. SANDERS (United Kingdom) referred to the material difficulties which had been remarked on by the delegates of South Africa and Cuba of supplying the information requested under his delegation's proposal. The United Kingdom delegation had in mind only the more important details of mandatory legislation, and had thought that, in preparation for the Review, most governments would already have investigated this problem.

Mr. MACHADO (Brazil) said that if this proposal by the United Kingdom were adopted, he would have to reserve the position of his delegation, as he did not know whether his Government would be able or willing to supply such information.

Mr. PEREZ CISNEROS (Cuba) said that even if his Government agreed to the substance of the United Kingdom proposal, it was not materially able to produce the information requested by 15 January. He considered, however, that it was inappropriate and premature to contemplate the definitive entry into force of the Agreement before the nature of the amendments agreed to under the Review were known and studied by governments, and suggested that the discussion of definitive application should be deferred.

Dr. NAUDE (South Africa) said that his Government would try to provide the information requested by 15 January.

Mr. AZIZ AHMAD (Pakistan) appreciated the reasons for the United Kingdom proposal, but said that it might not be possible for his Government to supply this information.

Dr. WESTERMAN (Australia) understood that the United Kingdom proposal was not for a full report of all existing mandatory legislation nor that there was any question at this stage of taking positions with regard to definitive application. It was not unreasonable to request countries to supply such information as a background for the Review discussions, particularly those who had difficulties with regard to certain articles.

Mr. SEIDENFADEN (Denmark) thought it unlikely that delegations should not have some information as to their own mandatory legislation. Without information on this subject it would not be possible to discuss the Protocol of Provisional Application, transitory provisions and other matters.

Mr. COUILLARD (Canada) said that it would be most helpful, if not essential, for Working Party IV to have information on this subject. It should be made clear that the replies of delegations would be without prejudice to any discussion of the question of definitive entry into force.

Mr. GARCIA OLDINI (Chile) referred to the material difficulties of a country so distant as his own. He was also disturbed with the interpretation of the Protocol of Provisional Application contained in paragraph 1. He thought it would be useful, if the proposal were adopted, for it to be worded in more precise terms, and essential that it should not depart from the actual text of the Agreement and Protocol. Furthermore governments could really not be asked to speculate as to which of the proposed amendments were most important or most likely to be adopted. Referring to the remarks of the Danish delegate, he observed that all countries did not have the same technical resources at their disposal and, furthermore, that, some countries were in a position which necessitated recourse to all the exceptions contained in the Agreement, and to supply information regarding mandatory legislation was for them a more complicated enquiry.

Mr. ENDERL (Austria) thought the proposal useful but the time provided too short.

Mr. RAO (India) agreed, and thought the request contained in paragraph 6, that contracting parties should take account of proposed amendments was quite impossible. The question of interpretation referred to in paragraph 7 also was a matter for the courts of each individual country. He suggested that the proposal might be clarified.

Mr. HAYTA (Turkey) said that his Government would try to compile the information requested but doubted whether this would be possible before 15 January. He could not undertake to take account of the position in the light of proposed amendments as suggested in paragraph 6.

Mr. BROWN (United States of America) remarked that the information to which the United Kingdom proposal referred was basic and essential to the Review, and all countries must have given it some thought. It might be made clear that only the most important mandatory legislation was in question, and the suggestion regarding proposed amendments might be dropped.

Mr. WHITE (New Zealand) supported the United Kingdom proposal on the understanding that the time limit would not be applied too rigidly nor too extensive details be expected.

Mr. ANZILOTTI (Italy) said that his delegation would attempt to obtain the requested information, but both for legislation regarding the existing provisions and more particularly with regard to amendments, the time was very short.

Mr. BIBAS (Greece) shared the view of the delegate for Chile, and reserved the position of his Government.

The CHAIRMAN thought that the divergence of view was largely due to the phraseology of the proposal. The United Kingdom delegate had explained that it was not an exhaustive catalogue that was required, and all contracting parties would recognize the time difficulty for certain countries. It had also been pointed out that the question of definitive application was not at this stage under discussion. Referring to the point raised by the delegate of Chile as to the reference to "mandatory legislation", the Chairman called attention to a report of the Third Session in which the words "inconsistent with existing legislation" in the Protocol of Provisional Application were defined as describing the measures permissible under this clause to be those which were based on legislation "of a mandatory character". In any event, the information requested was to assist the work of the Review, and in no way implied the taking of a position on such general questions as definitive application which were yet to be discussed.

The Chairman suggested that contracting parties might be able to agree to a proposal that delegations should use their best endeavours to provide as soon as they were able, and if possible before 15 January, due account being taken of the special circumstances of certain countries, information as to the extent to which they were prevented by internal mandatory legislation existing on the date of the Protocol of Provisional Application (or in the case of acceding governments, on the date of the Annecy or Torquay Protocols) from complying with the provisions of the Agreement. It would be useful to have the relevant details concerning mandatory legislation which might require action inconsistent with Articles III, XII-XIV, XVII, specifically, as well as other articles. Delegations should try to supply information as to the legislation that each individual government considered to have the most important bearing on the Review but could not be expected to provide an exhaustive list. The submission of this information would be without prejudice to the position of any delegation on questions being considered in Review Working Party IV or any other working party.

Mr. GARCIA OLDINI (Chile) maintained his reservation as to any interpretation of the Protocol of Provisional Application and reserved his position as to the material possibility of complying with the Chairman's request.

Mr. MACHADO (Brazil) requested an explanation of the type of legislation that would be relevant in relation to the provisions for the conduct of state trading. Although his Government would be willing to provide such information, he was anxious to know the extent that would be expected.

Mr. SANDERS (United Kingdom) thought that information was clearly only required on the provisions of such legislation which were relevant to the provisions of the General Agreement.

The CHAIRMAN reiterated that it was not an exhaustive list that was being requested, but that governments should decide what was relevant and important.

Mr. PEREZ CISNEROS (Cuba) associated himself with the Chilean delegate concerning the interpretation of the Protocol of Provisional Application. He did not oppose the Chairman's proposal, but doubted whether his Government would be able to supply the information requested by 15 January. He repeated his reservation that the supplying of this information would in no way prejudice discussion of the definitive application of the Agreement.

The Chairman's proposal was agreed.

2. Commodity Questions

(a) Interim Report of Working Party IV on Commodity Questions (L/297) (continued)

Mr. KOELMEYER (Ceylon) proposed two amendments to the terms of reference suggested by the United Kingdom (L/298): the insertion in the first line of "in the light of the Interim Report of Review Working Party IV", and in the fourth line of "to consider the relationship between such an agreement and the General Agreement."

Mr. MACHADO (Brazil) supported this suggestion, and proposed the deletion of the words "an interim" in the second paragraph.

He referred to the announcement that the United States had declined to take part in the United Nations Advisory Commission on Commodity Trade. This decision was consistent with United States policy in the commodity field, but nevertheless had a bearing on the attempt by the CONTRACTING PARTIES to find a solution to these matters. The support by his delegation of the proposal to establish a working party would depend to a certain extent on the attitude of the United States Government. Although he did not oppose the proposed terms of reference, he wished to record the view of his Government that no constructive solution could be reached without United States assistance.

Mr. COUILLARD (Canada) referred to the fact that the United Kingdom proposed terms of reference, unlike the Working Party's proposal, referred in greater detail to the organizational questions involved, and he wished to emphasize that this listing was not all inclusive. There were also questions of the relationship with other international organizations in the commodity field, of the functions of the CONTRACTING PARTIES with regard to a separate agreement, as well as other matters. The Report of the Sub-Group (W.9/105, paragraph 4) had referred to consequential organizational problems, and the feeling of the group was that no problem would arise in this field, on the assumption that the functions recommended for the Organization would not be too narrow to allow it to continue the work in the commodity field under the aegis of the General Agreement.

Mr. GARCIA OLDINI (Chile) proposed the addition in the first line of the words "and objectives".

Mr. SVEC (Czechoslovakia) said that the view of his Government was that the problems of international commodity trade were important for all countries of the world, not only insufficiently developed countries, and should not be left unsolved. The proposed terms of reference and the proposed letter to the Secretary-General involved, in his view, a formal decision to extend the scope of the Review beyond a mere review of the existing provisions. The proposed working party was being instructed to deal with problems of commodity trade under a separate agreement, administered and applied separately from the General Agreement. By this proposal the CONTRACTING PARTIES were being asked, in effect, to decide, before the end of the Review, on matters that should properly be decided in connection with the whole Review itself. He feared it might prejudice their positions in connection with the Review in general. The proposed letter to the Secretary-General of the United Nations was of so important a character that his delegation would have to obtain new instructions. His Government supported the activities of the United Nations Commission on Commodity Trade, and did not believe that its work would conflict with that of the CONTRACTING PARTIES. He requested that this matter, and the decision to set up a working party, be postponed until January.

Mr. COHEN (United Kingdom) recalled that the majority of contracting parties were in favour of making appropriate arrangements for the study of commodity problems under the aegis of the General Agreement, and hence Review Working Party IV had recommended the establishment of a working party. If progress were to be made in this study, it was desirable that the decision to establish this working party be made now.

Mr. MACHADO (Brazil) supported the proposal of the Czechoslovak delegate.

Mr. AZIZ AHMAD (Pakistan) remarked that the adoption of the proposal of Working Party IV implied no final commitment by the CONTRACTING PARTIES or any contracting party to decision on this question.

Mr. SVEC (Czechoslovakia) emphasized that his hesitation did not arise from any doubt that commodity trade should be regulated by some international machinery. His only doubts were as to whether the proposed working party and letter to the Secretary-General represented an efficient and suitable approach to the problem. He recalled the discussion on the Report of Working Party IV and the reference in the report of that Working Party to the undesirability of resolutions having no practical effect. There did not seem to him to be adequate safeguards that the proposed approach to these problems was not of an exhortatory rather than an effective nature. His Government had supported the United Nations Advisory Commission, and did not feel that its work should be in any way interfered with by the CONTRACTING PARTIES. However, the under-developed countries seemed to accept this proposal, and he did not wish to stand in the way of action in this field. His delegation would abstain.

Mr. MACHADO (Brazil) wished to make clear why he had suggested postponing a decision on the Working Party's report. Firstly, Brazil believed that commodity trade should be the object of international discipline; secondly that such discipline could best be provided for by the General Agreement. But international action necessitated the co-operation of all governments and, since the United States had decided not to co-operate in this field, his Government felt that the objectives of the proposed action were invalidated.

Mr. SEIDENFADEN (Denmark) said that he had been instructed to vote with the majority if it supported the proposal to establish a working party. However, the reference in the proposed terms of reference to a "separate" agreement was not covered by his instructions, and he would abstain.

Mr. FINMARK (Sweden) said that his delegation was in the same position as the delegation of Denmark, and would also abstain.

Mr. SANDERS (United Kingdom) emphasized that there was no intention of prejudging the precise degree of relationship with the CONTRACTING PARTIES which was, in fact, one of the main questions for the working party to consider. In the light of the amendment proposed by the delegate of Ceylon, the word "separate" might be deleted, and perhaps the abstentions of the delegations of Denmark and Sweden would not be necessary.

Mr. SEIDENFADEN (Denmark), in these circumstances, withdrew his abstention.

Mr. BROWN (United States) wished recorded the position of his Government on the question, a position which had already been expressed on several occasions.

Dr. WESTERMAN (Australia) regretted that the United States must disagree with the recommendation of the working party, and enquired whether there was any implication in this position that countries should continue to be bound by the provisions of the Havana Charter, Chapter VI. He wished to make clear, once again, the position of his delegation that, if the working party did not reach a satisfactory conclusion, his delegation would propose amendments to Articles XXIX and XX.

Mr. BROWN (United States) agreed with the delegation of Australia that both Articles XX:I(h) and XXIX required amendment.

Mr. Brown referred to the regrets expressed by the delegate of Brazil as to the attitude of his Government. The United States was convinced that a positive solution to the problem lay in the maintenance, increase and stability of demand in the centres of purchasing power. The United States also believed that it would assist the producers of raw materials if the obstacles to access to such markets were reduced or removed. Furthermore, it believed that a solution to the problem could be sought through an increase in consumption by finding new uses for products, improving their quality and production. The problem of producers who were dependent on one or two commodities could ultimately only be solved through diversification of their production, and there was a rôle for other countries to assist them in reaching such a solution through investment and technical assistance. These, in the view of his Government, were fruitful and constructive ways of seeking a solution to the problem of primary commodities, and ways in which the United States was willing to participate to the fullest extent.

Mr. MACHADO (Brazil), while thanking the delegate of the United States for his statement, remarked that these solutions still required international action.

Mr. PRIESTER (Dominican Republic) noted the remarks just made by the delegate of the United States. He hoped that such an approach to the problem comprehended specifically sugar; sugar coming from the Dominican Republic was still excluded from the United States market.

Dr. Priester hoped that the attitude of the United States Government to international action in the commodity field was not definitive. He thought there were grounds for such hope in the Staff Report to the Randall Commission which stated that although international commodity agreements might be considered worthy of only a limited place in United States foreign economic policy, this did not necessarily mean that the United States could make no contribution towards moderating the instability in commodity trade which lay behind the drawing up of such agreements. Among desirable ways to contribute to this, the Staff Report suggested consultation on international commodity problems. Mr. Priester referred also to the Paley Report on Resources for Freedom, published in 1952, which proposed international efforts to reduce instability through multilateral commodity agreements. Although aware of the difficulties of such international undertakings, the Paley Commission stated its belief that the alternative to "giving them a trial would be an open door to the field of restrictions and the monopolistic practices of cartels limiting production, consumption and trade". These results were the chief concern of the exporters of a limited number of primary products which, for lack of financial resources, had no access to the shelter of domestic price support programmes. The erratic behaviour of commodity markets strongly affected rates of production, volume of investment and economies of both producing and consuming nations.

Mr. Priester referred to the annual variations over the first half of the twentieth century in prices, quantities exported and total receipts. The extent of these variations prevented such countries from pursuing orderly economic lives and planning and carrying out development programmes, as well as making it difficult to create the necessary climate for foreign investment. The United States defended its negative approach on the grounds that the scope and duration of government interference in the fields of commerce and industry should be reduced to a minimum. There was, however, no mention of such a minimum with regard to agriculture, and he enquired whether the United States Government reserved to itself the right to intervene freely with regard to its own domestic agriculture, while rejecting the idea of intergovernmental co-operation in this same field. He hoped that this interpretation was not correct, since if such a divergence of attitude existed it was doubtful that the Review would be brought to a satisfactory conclusion.

Mr. Priester emphasized that his delegation was concerned much more with obtaining results in this field than with obtaining a co-ordinated set of principles and provisions to deal with commodity problems. Thus, if it were not feasible to provide for dealing with these problems within a revised agreement, they would support the indirect approach suggested by the United Kingdom.

The CONTRACTING PARTIES adopted the Report of the Review Working Party IV, subject to the reservations and remarks recorded above.

(b) The establishment of a Working Party

It was agreed to establish a Working Party on Commodity Problems with the following membership and terms of reference:

Membership:

Chairman: Mr. Peter (France)

<i>Austria</i>	Australia	Chile	Dominican Republic	Japan	<i>Netherlands</i>
	Belgium	Cuba	France	Pakistan	
	Brazil	Czechoslovakia	Germany	Rhodesia and Nyasaland	
	Canada	Denmark	India	Turkey	<i>Sweden</i>
	Ceylon		<i>Indonesia</i>	United Kingdom	
			<i>Italy</i>		

Terms of Reference:

1. To consider, in the light of the Interim Report of Review Working Party IV (L/297), specific proposals for principles and objectives to govern international action designed to overcome problems arising in the field of international trade in primary commodities and the form of an international agreement necessary to administer and apply those principles; to consider the relationship between such an agreement and the General Agreement; to consider also the relationship between the parties to such an agreement with, on the one hand, the CONTRACTING PARTIES and, on the other hand, with any other international organizations exercising responsibilities in the field of international trade in primary commodities; and to make recommendations to the CONTRACTING PARTIES.

2. To submit a report to the CONTRACTING PARTIES at the end of the present Session in the event that it is not possible at that date to submit final recommendations.

Mr. DONNE (France) thanked the CONTRACTING PARTIES on behalf of Mr. Peter for his election as Chairman.

The CHAIRMAN remarked that the United States had not been included among the members of the Working Party, but should their position in the meantime alter so as to enable them to take part, they would, of course, be welcomed. He remarked that observers would be admitted to this Working Party in the same manner as to any other.

(c) Letter to the Secretary-General of the United Nations (W.9/123/Annex II)

The proposed letter to the Secretary-General was approved.

3. Adjustment of Specific Duties in Finnish Schedule (L/286)

Mr. SAVOLAHTI (Finland) regretted that the request to place this item on the agenda of the Ninth Session had to be made so late. The relevant decision had only just been taken by the House of Representatives. As explained in the note by his delegation, his Government intended to adjust upwards the specific duties which remained in Schedule XXIV (after the transposition of a certain number to ad valorem duties at the Fifth Session) in order to take account of the depreciation of the Finnish markka in 1949 and the subsequent decline of the protection afforded by the specific duties. The new schedule would be distributed shortly to the CONTRACTING PARTIES.

The CONTRACTING PARTIES approved the addition of this item to the agenda of the Ninth Session and referred the new item to the Working Party on Schedules.

4. Complaints: Brazilian Compensatory Concessions

Mr. MACHADO (Brazil) said that his delegation had taken steps to obtain action by the Brazilian Government on this matter, and he was glad to be able to announce that the compensatory concessions granted to the United Kingdom and the United States in 1949 had been put into effect by a Decree of 11 December just passed. Brazilian law also provided that if the Executive put into effect a law that should have been enacted earlier, it was possible to obtain a refund of duties previously paid.

Mr. BROWN (United States) and Mr. SANDERS (United Kingdom) expressed their appreciation of the action of the Brazilian Government and the rôle the Brazilian delegation had taken in obtaining such action.

5. Complaints: Brazilian Internal Taxes

Mr. MACHADO (Brazil) wished to inform the CONTRACTING PARTIES that, at the same time as taking the action described above with regard to Brazilian compensatory concessions, his Government had also tried to take action on the matter of internal taxes. The Executive, however, did not have the power to eliminate the discrimination in question. A Bill was now under consideration by Congress whereby the situation would be corrected in 1955.

Mr. DONNE (France) thanked the Brazilian delegate for this information and hoped that when the measures were notified to his Government it would be possible to withdraw the item from the agenda.

6. Complaints: Peru, prohibition of imports from Czechoslovakia (L/235)

Mr. SVEC (Czechoslovakia) stated that the present Session had afforded him the opportunity of consultations with the Peruvian delegate, and he had hopes that a positive result would be announced to the CONTRACTING PARTIES.

See 6502.2

Mr. LARRABURE (Peru) took pleasure in informing the CONTRACTING PARTIES that the Decree prohibiting imports from Czechoslovakia had been abrogated by his Government, and it was hoped that trade with Czechoslovakia would be restored to normal in the near future.

Mr. SVEC (Czechoslovakia) thanked the Peruvian delegate, and thought the item could be removed from the agenda.

The CHAIRMAN expressed the appreciation of the CONTRACTING PARTIES at the settlement reached in this matter.

The Meeting adjourned at 1.0 p.m.