

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
LIMITED B
GATT/CP.5/SR.6
9 November 1950
ORIGINAL : ENGLISH

CONTRACTING PARTIES
Fifth Session

SUMMARY RECORD OF THE SIXTH MEETING

Held at the Marine Spa, Torquay
on Monday, 6 November 1950, at 3 p.m.

Chairman: Hon. L. D. WILGRESS (Canada)

- Subjects discussed:
1. Informal Guidance for the Press
(Press Release/15 - draft)
 2. Draft Agreement on the Importation
of Insecticides (GATT/CP/79)
 3. Brazilian Internal Taxes (GATT/CP.3/42,
para.17, GATT/CP.4/SR.21 and GATT/CP/72)
 4. Australian Subsidy on Ammonium Sulphate
(GATT/CP.4/39)

1. Informal Guidance to the Press on the Items of the Agenda (Press Release/15 -
draft)

The draft Guidance, which incorporated suggestions and corrections, was considered by the Contracting Parties. Certain drafting changes were made in the text at the suggestion of various representatives.

At the suggestion of Dr. BYSTRICKY (Czechoslovakia) the following note, similar to the one appearing in the volume containing the text of the Agreement printed by the United Kingdom Government, was inserted at the end of the "List of Governments which have the right to participate in the Fifth Session" on page 10 of the Guidance:

"The Nationalist Government of the Republic of China has notified its withdrawal from the General Agreement with effect from May 5, 1950; the Central People's Government of China has not yet defined its position with regard to the General Agreement".

Dr. BYSTRICKY (Czechoslovakia) further reserved for his delegation the right to raise the question of the representation of China at a proper time.

In response to a suggestion by Mr. JOHNSEN (New Zealand) that it be made explicit that the suggestions and interpretations in the press release did not involve the views of the Contracting Parties, the CHAIRMAN pointed out that a press release as such did not have the status of a conference document; the Contracting Parties had been called upon merely to de-restrict a paper containing information of a restricted nature.

It was agreed to de-restrict the Informal Guidance as contained in Press Release/15.

2. Draft Agreement on the Importation of Insecticides (GATT/CP/79)

The CHAIRMAN outlined the past developments leading to the inclusion of this item in the Agenda. Reference was made to the Resolution adopted by the Economic and Social Council at its 9th Session, which recommended that "Governments facilitate as much as possible the freer flow.....of insecticides, raw material and equipment for their production, by measures which they deem appropriate with regard to tariffs, import and export restrictions". Pursuant to this recommendation, the World Health Assembly had adopted the Resolution which was annexed to the letter from the World Health Organization.

Mr. JOHNSON (New Zealand) thought the information given by the Chairman served to remove some of the doubts which had been entertained by the representatives. Apart from the question whether such an agreement was really necessary (a question he would answer in the negative) the draft as prepared by the World Health Organization Secretariat contained serious internal inconsistencies as well as contradictions to the resolution, especially in regard to the limitation of the application of the agreement to importation of such products intended exclusively for use by Public Health authorities. The draft agreement had been modelled upon the earlier agreement sponsored by UNESCO, but the former differed substantially from the latter in that the UNESCO agreement did not contain the aforementioned limitation, and its scope was desirably narrowed down and clearly defined by the inclusion of definite schedules of the products involved. The Contracting Parties which were also represented at the World Health Organization should make their views known to that Organization.

Mr. DI NOLA (Italy) said that the scope of the draft agreement considerably exceeded that of the World Health Assembly Resolution. While there might be some doubt whether the objectives of the Resolution would best be achieved through an international agreement, it would nevertheless not be appropriate for the Contracting Parties to refuse to examine the project. The Contracting Parties should examine the proposal and advise the World Health Organization as to the most convenient method for the achievement of such objectives, at the same time explaining the difficulties which would be involved in the adoption of such an agreement.

Mr. TONKIN (Australia) felt that the draft agreement which required contracting states to undertake to admit, free from duty, the importation of four groups of products referred to in Article I therein, did not represent a workable formula. The text followed closely that of the UNESCO Agreement, but the UNESCO Agreement was made workable only by the addition of the appropriate schedules defining what was meant by educational, cultural and scientific goods. It might be advisable to see whether schedules relating to the four categories of products referred to in the Agreement could be drawn up and annexed to the agreement. The draft agreement as it now stood, in such vague terms, would have little prospect of being accepted by any government; governments which agreed to the principle embodied in the World Health Organization Resolution would certainly prefer to take independent action rather than accept an agreement couched in such general terms. Mr. TONKIN recommended that since tariff experts were available with most delegations, the question could perhaps best be entrusted to study by a working party, and that delegations should be requested to make available the services of their experts, the aim being to make improvements in the draft and to see whether it could be shaped into a sound and workable instrument.

Mr. BROWN (United States) thought that, apart from giving their technical advice on the draft agreement, it would also be desirable for the Contracting Parties to express a judgment as to the degree to which an agreement of this nature would be of use. He was, therefore, in favour of adopting the Australian proposal, but the working party should be instructed also to recommend a judgment to be given by the Contracting Parties on the value of such an agreement.

The CHAIRMAN, summarizing the discussions, pointed out that the consensus of opinion seemed to indicate that the Contracting Parties should not refuse to give assistance to the World Health Organization, which had asked for technical advice, and that it would also be appropriate for the Contracting Parties to express their views on the usefulness of such an agreement. The CHAIRMAN therefore proposed that a working party be set up and that, in order that the knowledge and experience of the two institutions might supplement each other, the working party should invite a representative of the World Health Organization to participate in its discussions.

Mr. SVEINBJORNSSON (Denmark) was doubtful whether the Contracting Parties should act on a request from an official of another international organization without a formal request from its authorised organ. In the present case, the Acting Director-General of the World Health Organization, if he desired technical advice, could perhaps have consulted privately with the secretariat of the Contracting Parties instead of transmitting a formal request on behalf of that Organization.

The CHAIRMAN suggested that the Working Party should bear these points in mind when deliberating the matter.

Mr. BYSTRICKY (Czechoslovakia) emphasised that in the view of his delegation, the draft agreement in its present terms could be judged forthwith to be unacceptable to any government. So the Working Party should be instructed not only to deal with the draft but also to give advice as to the procedure which would be appropriate and effective in furthering the objectives of the World Health Organization. Moreover, any advice given by the Contracting Parties should concern not only the dispositions to be taken by importing countries but also those by exporting countries.

In reply to questions advanced by certain representatives, the CHAIRMAN said that any advice given by the Contracting Parties would be given without in any way limiting the freedom of action of governments as regards any agreement eventually presented to them by the World Health Organization for consideration. He invited any representatives who had views on the subject to get in touch with the working party.

The CHAIRMAN then proposed, and the Contracting Parties approved, the following terms of reference and membership for the Working Party:

"To consider the letter from the World Health Organization and the draft agreement annexed thereto, and to submit to the Contracting Parties a draft reply embodying appropriate technical advice as to the feasibility of the agreement proposed and such improvements as would appear desirable to introduce in the procedure suggested to achieve the objectives of the World Health Organization in this field".

<u>Members:</u>	Australia	Sweden
	Brazil	United Kingdom
	France	United States
	Italy	

3. Brazilian Internal Taxes (GATT/CP.3/42, para.17, GATT/CP.4/SR.21, GATT/CP/72)

The CHAIRMAN explained the purpose of this agenda item by drawing attention to the information contained in GATT/CP/72.

Mr. CASTRO MENEZES (Brazil) confirmed the information that the executive department of the Brazilian Government had submitted to Parliament on June 2nd a message requesting the approval of a draft law designed for the purpose of adjusting the discriminatory internal taxes which had been judged by the Contracting Parties to be in conflict with the principles of Article III

of the Agreement and the Protocol of Provisional Application. In view of the length of the draft law, the Brazilian delegation would request that the Contracting Parties set up a working party to examine it with a view to advising as to the adequacy of the measures proposed and their conformity with the relevant provisions of the General Agreement.

Mr. CASTRO MENEZES further explained that, this year being an election year in Brazil in which members of the legislature had to spend much time in campaigning, the proposed law had not received consideration by Parliament. He hoped, however, that it would receive consideration in the near future.

M. LECUYER (France) said he was satisfied with the explanation as regards the delay on the part of Brazil to take final action, but pointed out that this was the third time the question had come up for consideration. He agreed to the request of the representative of Brazil for the setting up of a working party which would consider measures for the rectification of the present rather unsatisfactory situation.

Sir Stephen HOLMES (United Kingdom) was doubtful what terms of reference could be given to the working party. Would the working party be asked to recommend modifications to the Brazilian bill, which it was understood was already before the Brazilian Congress?

Mr. CASTRO MENEZES (Brazil) replied that the purpose would be for the Contracting Parties to ascertain whether the contents of the draft law adequately met the complaints. The matter had not been settled up to now, chiefly because of the involved procedures required for the passing of a legislation, and the Brazilian Government had done its best to meet the wishes of the Contracting Parties.

M. LECUYER (France) said that, while he understood the difficulty, his delegation would hope that the agenda item could be disposed of before the end of this session.

Mr. SCHMITT (New Zealand) thought it was awkward to suggest that a ruling could be given by the Contracting Parties on the merits of domestic legislation. If the Brazilian delegation would make available the necessary data and consult with the other contracting parties interested in the matter, including France, satisfactory adjustment might be reached between these contracting parties without the help of a working party. It might, therefore, be more expeditious for the Contracting Parties merely to take note of the facts and ask the Brazilian delegation to consult direct with the affected contracting parties. The item could be kept on the agenda and the Contracting Parties could return to it at the end of the consultation between the interested parties.

Mr. BROWN (United States) thought that since a question of principle was involved, and since the question had been examined by the Contracting Parties as a group, it would be appropriate that the matter be again examined by the Contracting Parties.

Mr. CASTRO MENEZES (Brazil) thought that it would be contrary to procedure under Article XXIII if direct consultation were carried out once again at this stage.

Mr. REISMAN (Canada) was of the opinion that although the Contracting Parties should always give such guidance as was requested by any contracting party, such an obligation did not necessarily involve the procedure suggested - i.e., consideration by a working party. In the present case, however, as both parties had agreed to such a procedure it would perhaps be advisable to set up a working party as requested.

Mr. SCHMITT (New Zealand) thought that the Contracting Parties would be establishing a dangerous precedent if they proceeded to pass judgment on a draft legislation which had already been submitted by a government to its

legislature. It should therefore be made very clear in the present case that the examination of the Brazilian bill had been carried out at the explicit request of the contracting party concerned.

M. LECUYER (France) suggested that as the question had been submitted to the Contracting Parties and studied by a Working Party in the past, it could be regarded merely as a continuation of the unfinished work of a past session. The French delegation had not ventured to suggest any other procedure because, if for no other reason, the Brazilian delegation had thought this was the most expeditious way of dealing with the question.

Mr. CASTRO MENEZES (Brazil) said that the Brazilian delegation believed that its government had done all in its power to regularise the discrepancies, and that the proposed legislation contained provisions which adequately met the views of the Contracting Parties. The present request was calculated to make manifest its attitude and to acquaint the Contracting Parties with the measures its government had adopted. Either course proposed would be acceptable to the Brazilian delegation.

M. LECUYER (France) pointed to some possible confusions in the discussions. It had been understood by the French delegation that the Brazilian delegation had requested the setting up of a working party in order to make known what had been proposed by its government in response to the recommendations of the Contracting Parties. It had not been contemplated that changes in the legislation should be proposed by the Contracting Parties to the Brazilian government.

Mr. DI NOLA (Italy) was not sure whether Article XXIII was applicable in the present case, but believed that the remarks made by the New Zealand delegate were pertinent and deserved attention. An impasse would be created if the working party should propose any recommendations which happened to be unacceptable to the Brazilian delegation. In his opinion, the best procedure would be to request that the two delegations carry out consultations and see whether the Brazilian bill was satisfactory to the directly affected contracting party or parties.

Mr. OLDINI (Chile) said that since the Brazilian delegation had no objection to either solution, it would be up to the Contracting Parties to make a choice. In his opinion, the fact that the Brazilian Government had asked the Contracting Parties for technical advice ruled out any question of sovereignty.

The CHAIRMAN, summing up the situation, said that the Brazilian delegation had proposed that a working party be set up - a procedure which had received the support of the representatives of the United Kingdom and France; on the other hand, the representatives of New Zealand and Italy had drawn attention to the danger of creating a precedent in which the Contracting Parties regarded themselves competent to consider a draft legislation which was before a national parliament. It was up to the Contracting Parties to decide which was the more appropriate course to take.

A vote was taken, and the Contracting Parties approved by 18 votes to 3 the proposal to set up a working party to study the Brazilian draft legislation. Upon the proposal of the CHAIRMAN, the following terms of reference and composition for the working party were adopted:

"As requested by the delegation of Brazil, to examine the draft legislation prepared by the Government of Brazil for presentation to its legislature, which legislation is intended to settle the matters covered by item 17 of the Agenda, and to advise on the conformity of such draft legislation with the relevant provisions of the General Agreement and the Protocol of Provisional Application".

Chairman: Dr. A. ARGYROPOULOS (Greece)

Members: Brazil Greece
 Chile United Kingdom
 France United States

4. Australian Subsidy on Ammonium Sulphate (GATT/CP.4/39)

The CHAIRMAN drew attention to the last paragraph of the report of Working Party G of the Fourth Session, by the terms of which a report would be submitted at this session by the two Governments concerned.

Mr. TONKIN (Australia) stated that the Governments of Australia and Chile had entered into consultation in accordance with the recommendations contained in the report referred to by the Chairman. The Australian delegation had now been informed by its Government that satisfactory agreement had been reached between the two Governments. The terms of the agreement had been filed with the secretariat and there would therefore seem to be no need for any further study of the item.

Mr. OLDINI (Chile) confirmed the statement made by the Australian representative. The Chilean Government had accepted the terms of agreement. Although the Chilean request had not been met in full, his Government had considered them satisfactory as a whole. The Contracting Parties should, therefore, now consider the matter concluded.

Mr. BROWN (United States) requested that the details of the agreement be made available to the contracting parties, as they might be interested to see the results of the negotiations.

The CHAIRMAN announced that a copy of the terms of agreement would be supplied to each delegation for reference. He expressed to the two delegations on behalf of the Contracting Parties, satisfaction that this matter had been settled.

After a further discussion on the order of business for the next meetings, the meeting rose at 6.45 p.m.