

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Page 175

SUMMARY RECORD OF THE TWENTY-FIRST MEETING

Held at the Palais des Nations, Geneva,
on Friday, 29 November 1957, at 2.30 p.m.

Chairman: Mr. L.K. JHA (India)

- Subjects discussed:
1. Report of Working Party on European Coal and Steel Community.
 2. Greek Increase in Bound Duty.
 3. Report on New Zealand Tariff by Working Party on Schedules.
 4. Report of the Working Party on Schedules.
 5. United States Action under Article XIX.

1. Report of Working Party on European Coal and Steel Community (L/755)

Mr. JOCKEL (Australia), Chairman of the Working Party, presented the report. The Working Party had examined the Fifth Annual Report of the Member States of the European Coal and Steel Community covering measures applied by the Member States under the waiver, and questions relating to the supply of coal, coke and steel to customers in third countries and the prices for these products charged by Community exporters. He expressed his appreciation to the representative of the High Authority for his collaboration. The Working Party had paid particular attention to the introduction of the harmonized tariff which would take place at the end of the transitional period, on 10 February 1958. The representatives of the Member States had felt unable to furnish details of the tariff but had given certain general indications concerning its structure. In connexion with this point the Working Party had prepared three recommendations which were contained in paragraphs 28 and 31 of the Report.

Mr. CHRISTENSEN (Denmark) expressed his satisfaction on the useful discussion in the Working Party on the general policies of the High Authority, including those relating to prices. In recent months a certain improvement had taken place in the field of prices, at least as regards those for most steel products; the discrepancies between the export prices and the prices charged within the Community had been narrowed as compared to those existing at the beginning of the year. At that time, however, these price differences had been larger than ever. Relying upon the assurance expressed by the High Authority that export prices would be kept under close observation, his delegation hoped that these price differences would be further reduced during the coming months.

Mr. STANDENAT (Austria) referred to the discussions in the Working Party on the harmonization of duties. He drew attention to the second part of paragraph 29 of the Report which indicated that the Member States should enter into consultation with the CONTRACTING PARTIES or any interested contracting party before the new rates of duty entered into force. His delegation had requested such consultations pursuant to the provisions of Article XXII of the General Agreement and hoped to receive a positive answer from the Member States. In concluding, Mr. Standenat expressed the hope that these consultations would lead to satisfactory results before the entry into force of the new tariff, otherwise his delegation would be compelled to resort to the opportunities for multilateral negotiations provided for in the General Agreement.

Mr. HAGEN (Sweden) underlined the importance of the problem raised by the harmonization of duties on steel products. The interpretation of the Member States of certain provisions of the waiver did not appear to be acceptable to his delegation. Owing to the pressure of work, the discussion in the Working Party had not been conclusive. He therefore welcomed the proposal to hold consultations, which would provide an opportunity for the Six to clarify their intentions and permit his delegation further to put forward its views.

Mr. SVEC (Czechoslovakia) deemed that the discussions in the Working Party had been very useful. The experience with the Coal and Steel Community had so far not been such as to dispel the apprehensions of third countries. On the contrary, certain tendencies towards increased tariff protection, cartellization and discriminatory pricing practices, had rather exacerbated the concern of those countries which they gravely affected. He hoped that the Member States and the High Authority would find ways to control these tendencies and to keep them within reasonable limits.

Mr. DONNE (France), speaking on behalf of the Member States, said that the frank discussions in the Working Party had led to the clarification of certain problems and had allayed many apprehensions. Referring to the statement by the representative for Czechoslovakia, he pointed out that before the institution of the Community the average level of the duties on coal, coke and steel applied by the non-Benelux Member States had been between 20 and 25 per cent ad valorem. The level of the harmonized tariff would be lower. The Member States were ready to take any measures necessary to give effect to the recommendations made in the Report. They would submit as soon as possible the harmonized tariffs to be applied in each country, and would furthermore transmit before 31 March 1958 their report covering the period September 1957 - 10 February 1958.

The Report of the Working Party, including the recommendations contained therein, was adopted.

2. Greek Increase in Bound Duty (L/765)

The CHAIRMAN recalled that at the Eleventh Session the complaint by Germany concerning the imposition of an increased duty on long-playing gramophone records had been referred to the Intersessional Committee for further examination.

At the request of the German Government the question had been left to be dealt with by the CONTRACTING PARTIES at this Session. Meanwhile, the Intersessional Committee had asked to the Executive Secretary to obtain from the Customs Cooperation Council in Brussels an advisory opinion on the question of customs classification involved in this complaint. The reply of the Council had been distributed in L/726 and Add. 1. The German and Greek delegations, after consulting on this question during the Session, had issued a joint statement, in document L/765, on the results of further bilateral consultations.

Mr. EICHHORN (Federal Republic of Germany) reported that his delegation and the Greek delegation had agreed not to pursue the discussions on the matter of principle but to seek a practical solution to the difficulties in a spirit of mutual understanding. In the course of the discussions the Greek Government had proposed to reduce the new rate for long-playing records by 10 per cent and to bind this new duty under the General Agreement. This solution took account of the commercial interests of other contracting parties and he therefore invited the CONTRACTING PARTIES to take note and approve it.

Mr. BENSIS (Greece) confirmed the statement by the representative of the Federal Republic. After consultations had been held in a spirit of understanding and compromise his Government had agreed to reduce the rate of duty from 40 per cent to 36 per cent. This duty would be inserted in the Greek Schedule annexed to the General Agreement.

Mr. DONNE (France) said that his delegation was satisfied with the proposed settlement.

The CHAIRMAN emphasized that the proposed solution of the complaint did not impinge on the point of principle and could therefore not be regarded as creating a precedent.

The CONTRACTING PARTIES took note of the statement by the German and Greek representatives that this difference had been settled to the satisfaction of the interested contracting parties.

3. Report on New Zealand Tariff by the Working Party on Schedules (L/763)

Mr. DUBOIS (Belgium), Chairman of the Working Party on Schedules, said that the Working Party, after examining the application by the Government of New Zealand had prepared the draft decision contained in document L/763. The reasons for the request were set out in the preambular recitals of the draft decision. The Working Party proposed that the CONTRACTING PARTIES, acting pursuant to paragraph 5 of Article XXV, authorize New Zealand to apply the revised tariff simultaneously with its submission to the New Zealand Parliament, provided negotiations on the New Zealand Schedule are carried out in accordance with the conditions laid down in the draft decision.

Mr. GARCIA OLDINI (Chile) reserved his position as there had been insufficient time for his Government to send instructions.

The CONTRACTING PARTIES approved by twenty-seven votes in favour, none against, the decision that the provisions of Article II of the General Agreement be waived to the extent necessary to enable New Zealand to apply the revised tariff simultaneously with its submission to the New Zealand Parliament, subject to certain terms and conditions.

Mr. PRESS (New Zealand) thanked the CONTRACTING PARTIES for their help and co-operation. The decision which they had approved was not in any way contrary to the spirit and intention of the General Agreement.

4. Report by the Working Party on Schedules (W.12/47)

Mr. DUBOIS (Belgium), Chairman of the Working Party, introduced the report. The Working Party had examined ten lists of items which had been submitted for inclusion in the Seventh Protocol of Rectifications and Modifications. The list of rectifications of the Government of Cuba, submitted too late for its examination by the Working Party, had been circulated in document L/722 so that it might be used for reference in any tariff negotiations which the Government of Cuba might undertake. The proposed rectifications and modifications had been incorporated in the draft protocol which was now submitted to the CONTRACTING PARTIES for their approval so that it might be opened for signature on 30 November 1957. Pursuant to the Declaration of 24 October 1957 (L/725), this draft Protocol provided for the deletion of Section D (Malayan Union) from Schedule XIX (United Kingdom) and for the insertion in the Geneva (1947) Schedules of a new Schedule XXXIX - Federation of Malaya. After examining the questions which arose in connexion with the preparation of consolidated schedules, the Working Party had made recommendations to the CONTRACTING PARTIES which were contained in the Report.

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

5. United States Action under Article XIX (L/757, L/758)

The CHAIRMAN referred to document L/757 which announced action taken by the United States Government to increase the rate of duty on an item included in the United States Schedule. The delegations of Sweden and Denmark had submitted a statement on this matter (L/758).

Mr. HAGEN (Sweden) said that he had been instructed by his Government to draw the attention of the CONTRACTING PARTIES to the action taken by the United States Government in withdrawing, through the invocation of Article XIX, a concession granted to Sweden and Denmark at Annecy in 1949 by raising the customs duty on spring clothespins from 10 cents to 20 cents per gross. In the opinion of his Government the competitive position of United States manufacturers in this field had in fact improved during the past few years and no circumstances had been brought forward which would meet the requirement of Article XIX that the domestic industry was being seriously injured or threatened as a result of increased imports. The increased imports of clothespins into

the United States, whether or not causing or threatening serious injury to the domestic industry, could not be considered to be a result of the customs treatment which reflected the concession granted to Sweden and Denmark since, although the concession came into effect in 1950, the rate of duty had been at the bound level since January 1943. Further, the present volume of imports, whether or not of a nature to cause or threaten serious injury to home producers, could not be considered to be a result of unforeseen developments as required in Article XIX. There had been no substantial change since 1950 in the conditions of the domestic industry as compared with those of the industries in the exporting countries.

In a 1954 Tariff Commission Report on the imports of spring clothespins, three of the Commissioners recommended the imposition of a global quota of 450,000 gross. The President, however, concluded that no clear case had been made to warrant a change in import treatment. The position of the domestic industry was thus deemed to be due to domestic developments which did not warrant action under Section 7 of the Trade Agreements Extension Act. Since 1954 United States production had increased substantially and was more than three times that of 1946, the first year when the reduced tariff had had a practical effect on imports. The decline in the use of clothespins in general, which could be observed in 1954, had been reversed and the fact that imports had a slightly larger share of the expanding market seemed to be due to the domestic industries' lack of production capacity rather than to its lack of competitive capacity.

Spring clothespins were produced in Sweden by a dozen relatively small factories and nearly 90 per cent of output was exported. Since more than half of total exports went to the United States, the 100 per cent increase in the duty would constitute a heavy blow to these enterprises, most of which had no other production lines. Sweden was a traditional exporter of spring clothespins to the United States. A decrease in exports of clothespins alone would not substantially affect the trading deficit with the United States since Sweden's total exports to the United States were largely made up of a great number of commodities each one with a comparatively small export value, but this example of a sudden intervention in order to obstruct foreign competition was likely to have the additional unfortunate effect of discouraging other export industries from establishing or developing markets in the United States. The conclusion drawn by Swedish exporters, therefore, was that if their efforts to market a product in the United States were to meet with success they would be frustrated by various measures which restricted imports of the commodities concerned. As his Government could not consider the action taken by the United States Government as justified under Article XIX it was continuing its efforts to have the decision reviewed, but if these representations continued to be of no avail it would like to have the possibility to request the Intersessional Committee to appoint a panel to investigate the matter.

Mr. CHRISTENSEN (Denmark), in supporting the statement by the representative of Sweden, said he would limit his remarks to two aspects of this matter. The first was the legal aspect. He could see no interpretation of Article XIX

which would justify the claim that clothespins had been imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers. Sales by domestic industries had increased in recent years reaching an all-time peak in 1956; imports had not increased to any appreciable extent and, in his opinion, no "unforeseen developments" had occurred since no substantial changes had taken place in the trade in this product for some time. On previous occasions during the present Session he had referred to the danger of audacious interpretations of the provisions of the General Agreement and in this particular case he thought that the CONTRACTING PARTIES were faced with a new example of GATT principles being overlooked and of bilateral concessions granted to other countries being ignored.

The second aspect was the question of principle involved. He referred to the discussion in the Working Party on German import restrictions where a number of delegations, including the United States delegation, had stressed that the principle of eliminating quantitative restrictions was valid even if such elimination affected the pattern of internal trade or marketing or the level of income. These delegations had concluded by stating: "It was desirable that in the interest of general productivity and economy of resources marginal producers should be encouraged to improve their efficiency or move to alternative activities." It should be borne in mind that both quantitative restrictions and tariffs were barriers to trade and that a common objective of the CONTRACTING PARTIES was substantially to reduce all barriers and to eliminate discriminatory treatment in international commerce. If the leading trading nations, especially those in a strong balance-of-payments situation, took steps in the opposite direction they made it more and more difficult for other countries to pursue a liberal and non-discriminatory policy in accordance with the objectives of the General Agreement. The case under discussion was only one of a long range of examples where European exporters had successfully built up and endeavoured to maintain a market in the United States, only to be obstructed by new barriers to their exports. The Danish delegation was prepared to continue its discussions with the United States Government, but unfortunately it did not seem likely that the United States' position would be reconsidered. It might be necessary, therefore, as stated by the delegate for Sweden, to place the matter on the agenda of the Intersessional Committee with the request that a panel be set up to examine the matter.

Miss LOUGH (United Kingdom) said that her delegation was also concerned with the question of principle involved in the recourse to Article XIX for the reasons advanced by the representatives of Sweden and Denmark. The point raised, as to whether injury to United States manufacturers was so great as to justify raising the bound duty on this product, was an important one, especially since one of the main causes of concern about recourse being had to Article XIX was the uncertainty to international trade which it generated. She expressed the hope that the United States would have full regard to the views that had been put forward.

Mr. STUYCK (Belgium) indicated the concern with which the Benelux Governments viewed this latest use by the United States of the escape clause procedure and recourse to Article XIX. In past years the Benelux countries had also been affected by such measures. It was particularly deplorable that a situation created by the General Agreement introduced an element of uncertainty and insecurity into the export trade of contracting parties to the United States since the objectives of the General Agreement were precisely to minimize trade instabilities. It was regrettable that in numerous circumstances the United States Government had had recourse to the procedures of Article XIX for reasons which did not appear to be justifiable under that Article. If, as suggested, the Intersessional Committee was charged with this problem, his delegation would associate itself with any steps that might be taken with a view to examining this question within the framework of the General Agreement.

Mr. ADAIR (United States) assured the contracting parties concerned that his Government was prepared to continue bilateral discussions on this subject. His delegation had no objection to the procedure proposed for further consideration of this question.

The CONTRACTING PARTIES agreed that this question could be referred to the Intersessional Committee which could, if necessary, appoint a panel to examine the issues involved.

The meeting adjourned at 4.15 p.m.