

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

SR.24/13
4 December 1967

Limited Distribution

CONTRACTING PARTIES
Twenty-Fourth Session

Page 162/163

SUMMARY RECORD OF THE THIRTEENTH MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 November 1967, at 3 p.m.

Chairman: Mr. K.B. LALL (India)

	<u>Page</u>
<u>Subjects discussed:</u>	
1. Italian waivers - Libya and Somalia	162/163
2. United States subsidy on unmanufactured tobacco	164
3. Article VI - countervailing duties	166
4. United Kingdom steel loyalty rebate	170
5. Trade of less-developed countries - adoption of Committee report	171
6. Programme of Meetings	171

1. Italian waivers - Libya and Somalia (L/2894, L/2895 and L/2926)

The CHAIRMAN recalled that at their fourth meeting the CONTRACTING PARTIES had established a Working Party to examine the request by the Government of Italy for an extension of the waivers which permitted Italy to grant special treatment to certain products imported from Libya and Somalia. The report of the Working Party had been distributed in document L/2926.

Mr. PETRIE (Canada), Chairman of the Working Party, said that with regard to the Libyan waiver the Working Party had noted with satisfaction that certain items would be deleted from the list of products enjoying special customs treatment. For the remaining items the Working Party recommended that the waiver be extended until the end of 1969 and that the situation be reviewed before the end of 1968.

With regard to the Somalian waiver the Working Party had noted that the Italian Government had only requested permission to grant special customs treatment to two items - prepared or preserved meat and fish - for a period of six months. On the other hand, for bananas the Italian Government had requested authority to continue to grant special fiscal treatment for a further two years.

The Italian representative had expressed the opinion that by the end of that period the Government of Somalia should no longer find itself in need of assistance. The Working Party had agreed to recommend that the special customs treatment for the two products in question be authorized for a further six months and that special fiscal treatment for bananas be authorized for a further two years. One member had reserved the position of his government.

The Working Party had prepared, for adoption by the CONTRACTING PARTIES, two draft decisions, annexed to the report, extending the validity of the two waivers.

Mr. FRANCAVIGLIA (Italy) pointed out that Italy had requested an extension for three years of the waiver permitting special customs treatment for certain Libyan products. He understood and accepted, however, the reasons that had prompted the Working Party to propose an extension for two years only. He hoped that the CONTRACTING PARTIES would approve the recommendations of the Working Party.

The report of the Working Party was adopted.

The Decision extending the waiver permitting Italy to grant special customs treatment to certain products of Libya was adopted by fifty-one votes in favour and none against.

The Decision authorizing Italy to continue to grant special customs and fiscal treatment to certain products of Somalia was adopted by forty-nine votes in favour and one against.

2. United States subsidy on unmanufactured tobacco (L/2925)

The CHAIRMAN noted that the Council of Representatives had, at the request of the Government of Malawi, established a Working Party to conduct consultations under Article XXII:2 concerning the United States export subsidy on unmanufactured tobacco. The Working Party's report had been distributed in document L/2925.

Mr. MAHMOOD (Pakistan), the Chairman of the Working Party, drew attention to the salient points in the Working Party's report. The Working Party had discussed the reasons for the introduction of the subsidy, its effects and the legal issues arising as regards both Article XVI and Part IV. The representative of the United States had emphasized the view of his Government that the subsidy conformed fully with the provisions of the General Agreement. It had been pointed out that Malawi's recourse to Article XXII:2 in connexion with the subsidy raised important points of principle as regards the effectiveness of

Part IV since tobacco was a commodity in which developing countries and an industrialized country were in direct competition. The conclusions of the Working Party indicated that Malawi, India, Jamaica and Turkey had, in view of what they considered to be the adverse effects of the subsidy, requested its removal. Some members of the Working Party had also requested that the United States undertake prior consultation in the event of its considering an extension of the subsidy. The representative of the United States had not been able to give any formal undertaking as regards these requests but had stated that he would convey the request for prior consultation to his authorities with a recommendation that it be given sympathetic attention.

Mr. LOVATT (Malawi) regretted that the United States had been unable to accept the validity of the points made by representatives of other tobacco exporting countries and to accede to their requests. He suggested that this was one of the first occasions on which the effectiveness of Part IV had been put to the test; regrettably, it could not be expected that developing countries would be persuaded of the efficacy of the new chapter as it stood. He proposed that an urgent examination should be made of means of strengthening the provisions of Part IV so as to render them more effective.

Mr. LATIMER (Canada) said that his delegation had welcomed the opportunity presented in the Working Party of bringing their views to the attention of other interested countries. There had, during the current session, been a considerable advocacy for recourse to the consultation procedures of the GATT as a means of reconciling differences. If such consultations were to be effective the consulted country had to be sympathetic in the consideration it gave to representations made to it. Accordingly he would urge the United States to give sympathetic consideration to the requests made during the present consultations.

Mr. SWARUP (India) suggested that the concept of "equitability" as contained in paragraph 3 of Article XVI needed to be interpreted in the light of the provisions of Article XXXVI:3; percentage shares of world markets had to be viewed dynamically as it was necessary for developing countries to increase their share of world trade. India was the world's fourth largest tobacco producer and the crop provided a livelihood for a large number of poor producers. He urged the United States Government to act on the requests made.

Mr. BRODIE (United States) said that the report reflected the views of the United States. His Government was not convinced that the subsidy had caused damage to Malawi's exports. In 1966 the United States exports of fire-cured tobacco had declined by even more than had Malawi's and the decline of Malawi's exports had been most noticeable in markets in which the United States

was an insignificant supplier. Although he could not give any response now to the requests made, they would be given careful consideration by his Government.

The CHAIRMAN noted that the report of the Working Party contained no conclusive indication as regards damage to the trade interests of other tobacco producers arising from the existence of the United States subsidy. However, as it appeared that, to some extent, the provisions of Part IV were involved and as it was conceivable that the trade interests of other producers could be affected, the CONTRACTING PARTIES might wish to reinforce the requests contained in paragraphs 27 and 28 of the report by urging the United States to give sympathetic and urgent consideration to these requests.

This was agreed and the report was adopted.

3. Article VI - countervailing duties (L/2868)

The CHAIRMAN pointed out that during the Kennedy Round, when the Anti-Dumping Code had been prepared, it had been suggested that the possibility of drawing up rules to govern the imposition of countervailing duties should also be examined. The Trade Negotiations Committee had referred the suggestion to the CONTRACTING PARTIES.

Mr. THRANE (Denmark) recalled that Denmark had proposed in the Anti-Dumping Group that countervailing duties should be examined in the same manner as anti-dumping duties. In his Government's opinion the same basic ideas would apply to both kinds of duties: governments should be encouraged to use them sparingly and clear rules should be established for their imposition. He was aware that a study of countervailing duties would have repercussions in related fields and mainly with regard to subsidies. He stressed, however, that the Danish proposal for a study of the problems in connexion with the imposition of countervailing duties had met with considerable support in the Anti-Dumping Group. Because time had been too short for a thorough discussion of the question in that Group, his Government had suggested that a special body be set up to conduct the study. He agreed that the terms of reference of the new body should be wide enough to cover an examination of other related aspects of the problem.

Mr. MALMGREN (United States) said that his delegation agreed with the thinking expressed by the representative of Denmark. It had not been possible to go deeply into the matter in the Anti-Dumping Group, but his delegation was aware of the usefulness of further studies in the area and had agreed to recommend that the CONTRACTING PARTIES consider the establishment of a body for

that purpose. It had always been the understanding of his Government that the subject for examination should include the mirror image of the problem, i.e. export incentives and export subsidies. He could, in fact, see no purpose in looking at only one side of the problem. The increased diversity of financial and other aids to exports was likely to become more and more of a problem in the coming years. All contracting parties had problems on the issues involved - in industry as well as in agriculture. There were conflicting practices between countervailing duty laws on the one side and subsidy laws on the other. Many countries were experiencing growing difficulties in their traditional markets from subsidized exports from other exporting countries. Disruptive effects of subsidies both in industry and agriculture lead in many cases to new and unfortunate restrictive safeguards. There were increasing pressures in all countries to develop new export incentives. There was thus a need for the CONTRACTING PARTIES to address themselves to the combined problem of countervailing duties and export subsidies. They should aim at creating an opportunity to review constructively the practices on all sides and to make them compatible. Such an exercise would be a predecessor to any future negotiations and an essential element to clear away conflicts between various laws. The CONTRACTING PARTIES should, in his opinion, undertake a broad examination of the effects on international trade of all aspects of countervailing duties and export subsidies, including financial incentives, drawbacks, government services and all related matters, whether or not they fell within the meaning of subsidies according to various interpretations of the General Agreement and whether they were permitted or prohibited under the General Agreement. His delegation thus supported the Danish proposal and wished the establishment of a working party with broad terms of reference to conduct an intensive and comprehensive examination. It should begin its work as early in 1968 as possible and report back to the CONTRACTING PARTIES at their twenty-fifth session.

Mr. LATIMER (Canada) said that the proposal before the CONTRACTING PARTIES appeared to be useful and constructive. There was no doubt that the proliferation of export incentives could pose a real problem. The successive reduction of tariff barriers focused attention on other trade obstacles. In examining countervailing duties it was, however, important to have a clear goal in view and not to start a study for its own sake. The aim of the proposed group should be to see what could be done in order to remove subsidies and similar measures distorting the competitive conditions of trade. On the understanding that this was the objective to be pursued, Canada would support the establishment of the proposed group as suggested by the United States. It should report to the next session of the CONTRACTING PARTIES, but in the meantime it would be useful to have an interim report submitted to the Council.

Sir EUGENE MELVILLE (United Kingdom) recalled that time had not been available during the Kennedy Round for a thorough study of countervailing duties. The question of the scope of the study to be undertaken had not been raised in the Anti-Dumping Group. What the United Kingdom had in mind, was not the wider issues to which reference was being made. In its opinion it would be possible and useful to separate the wider and the narrower issues. The aim should rather be to draft in the field of countervailing duties something similar to the Anti-Dumping Code. For that purpose it would not be necessary to look deeply into the underlying measures. A profound examination of those measures were likely to lead to prolonged studies as had been confirmed by the experiences of the Organisation for Economic Co-operation and Development. His delegation would, however, not raise objections against the ideas taken up by the United States if there was a general opinion in favour of them, but it would need a little time to study the proposals for such broader terms of reference for the proposed group.

Mr. SCHLOSSER (Commission of the European Economic Community) hoped that the results achieved in the Anti-Dumping Group would not be compromised through too limited a number of acceptances of the Code. With regard to the proposed study of countervailing duties, he said that in his opinion these duties did not represent another side of the anti-dumping problem, as had been intimated by the representative of Denmark, but a different problem. The provisions relating to anti-dumping duties were all to be found in Article VI while for countervailing duties only the provisions relating to compensation were embodied in Article VI; the rules regarding subsidies were to be found elsewhere in the General Agreement. The problem with regard to countervailing duties was thus broader in scope. It seemed to him to be wise to postpone a study of the countervailing duties until the fate of the Anti-Dumping Code had become clear. He called attention to another difficulty with regard to countervailing duties: the different circumstances concerning industrial and agricultural products. For industrial products the situation was fairly clear: subsidies were prohibited and the problem was mainly to establish the existence of a subsidy. For agricultural products, on the other hand, the problem was much more complex and a study of the kind proposed was likely to lead to lengthy and fruitless discussions on agricultural policies. Wherever the limit of the examination was drawn, one was likely to run into new difficulties. He thus thought that the moment was not opportune for the creation of a group as suggested. He would, however, not exclude that it could be useful to revert to the question at a forthcoming meeting of the Council.

Mr. TALBAR (Israel) said that his delegation supported the Danish proposal. The problems with regard to countervailing duties were to a large extent the same as those of anti-dumping duties, and it would be desirable to ensure a uniform application of Article VI. In the study of countervailing

duties special consideration might be given to the interpretation of bounties and subsidies. The working party should also examine the question whether the provisions regarding injury and the definition of industry in the Anti-Dumping Code were equally applicable to countervailing duties. Israel wished to participate in the proposed working party.

Mr. CAMPBELL (Australia) said that it had for a long time been the aim of his Government to promote the establishment in GATT of provisions regarding export subsidies and similar incentives. Australia was therefore in favour of a far-reaching study as proposed. He agreed with the representative of Canada that the study should be directed towards a specific purpose, i.e. in the first place to find out whether there was a basis for establishing rules against distortion of trade through export subsidies. It was clear that such a study would require a good amount of labour and time. It was important that more urgent tasks in the same area should not be deferred because of starting such a study. The efforts to find long-term solutions should not preclude immediate action being taken in, for example, the dairy sector. He agreed that subsidies and countervailing duties were only symptoms of more fundamental problems. It was therefore essential not to limit the study in such a way that new provisions were created while the underlying factors were left unchanged. He further referred to the change in the international trade situation, which had been caused by the devaluation of the pound sterling, and said that such fundamental changes illustrated that rules relating to export incentives, which were adequate one day, might be out of date the next.

Mr. MALMGREN (United States) noted that it was evident that the ideas put forward by Denmark and the United States had met with some interest. The representative of the Community wished to make a distinction between industrial and agricultural products; it seemed to him that the study could be started on a basis of equal treatment for the two. If it were later found that it would be more convenient to deal with the two categories separately, a decision could then be taken. One should in any case approach the complex problem in a pragmatic spirit. It was clear that a study of the kind proposed would take a long time, and it could of course be looked upon as part of the long-run work programme. He thus did not think that there was a real conflict between the views expressed by the United States and those of the Community.

The CHAIRMAN said that delegations might wish to have a little more time to examine the proposals made and suggested that the item be taken up again at a later meeting.

It was so agreed.

4. United Kingdom steel loyalty rebate

Mr. BRODIE (United States) said that this question had been the subject of bilateral discussions between the United States and the United Kingdom, but that they had not been able to resolve the problem, which was the following: The British Steel Corporation - the organization formed by the British Government when the steel industry was nationalized - had recently announced that purchasers of white strip mill products, particularly sheet and medium plate, would receive a rebate of 30 shillings per ton - about 5 per cent - if they certified that they had not used imported sheet or medium plate. The British Steel Corporation was not the sole producer of those articles in the United Kingdom. That kind of rebate was not in the United States' opinion consistent with the obligations of the United Kingdom under GATT and had adverse effects on international trade. His Government wished to let interested contracting parties know about the problem. The United States also wished to consult with the United Kingdom under Article XXII:2. He suggested that the date for the beginning of the consultations should be left open in order to let interested governments have a little time to consider the issue.

Mr. LATIMER (Canada) said that Canada had had some difficulties with the issue raised by the United States and wished to take part in the consultations.

Sir EUGENE MELVILLE (United Kingdom) said that his Government had been aware for some time of the interest of the United States and Canada in this question. It had no objections to pursuing the matter in accordance with the provisions of Article XXII. He wanted to stress in passing that the invocation of this Article should not be considered as an unfriendly gesture, as had recently been pointed out in another context by the Director-General; on the contrary it offered a useful framework for discussions on problems of mutual interest. His Government had carefully considered the question of the compatibility of the loyalty rebate with the provisions of GATT and was satisfied that no conflict arose. The rebate was a temporary measure taken by the Corporation when established, pending a review of its pricing policy. The rebate had been created for commercial purposes and corresponded to normal commercial practices. The United Kingdom was prepared to take part in the consultations requested by the United States and to supply further information.

Mr. NISIBORI (Japan) said that Japan supported the United States' request for consultations and wished to participate in them.

The CHAIRMAN noted that all interested parties seemed to agree on the best procedure to follow. He suggested that consultations should be held under paragraph 2 of Article XXII and that the terms of reference and the membership of the Working Party to conduct the consultations should be left to be decided by the Council.

The CONTRACTING PARTIES so agreed.

5. Trade of less-developed countries - adoption of Committee's report (L/2912)

The CHAIRMAN said there had been a full discussion on the report of the Committee on Trade and Development, contained in document L/2912 and Corr.1, and as the Committee's recommendations would be covered in the summary of conclusions on the future work programme, it only remained for the CONTRACTING PARTIES to adopt the report.

The report was adopted.

6. Programme of meetings (W.24/27)

The CHAIRMAN said that in document W.24/27 the Director-General had proposed dates for the next meeting of the Council of Representatives and for the twenty-fifth session of the CONTRACTING PARTIES, viz:

5 December 1967	-	Council of Representatives
4-29 November 1968	-	Twenty-Fifth Session of the CONTRACTING PARTIES

These dates were approved.

It was left to the Council to establish dates for committees and working parties which should meet before the end of the year or early in 1968.

The meeting closed at 5 p.m.