GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
LIMITED B
GATT/CP.6/SR.19
24 October 1951
ORIGINAL: ENGLISH

CONTRACTING PARTIES
Sixth Session

SUMMARY RECORD OF THE NINETEENTH MEETING

Held at the Palais des Nations, Geneva
on Monday, 22 October 1951, at 10.30 a.m.

Chairman: Mr. Johan MELANDER (Norway)

Subjects discussed:
1. Accession of Austria, Peru and Turkey
2. Item 16 - Report of Intersessional Working Party on Withdrawal of Concessions from Schedule XX.

1. Accession of Austria, Peru and Turkey

The CHAIRMAN welcomed the Austrian, Peruvian and Turkish delegations, whose Governments had, since the last meeting of the Contracting Parties, acceded to the General Agreement.

Mr. WILDMANN (Austria) thanked the Chairman and the Contracting Parties for the decision in favour of the admission of Austria. This was an appropriate occasion for him to say that Austria, in the capacity of a contracting party, was prepared to participate in all efforts leading to a reduction in barriers to trade. The Austrian Government considered international economic cooperation a decisive contribution to the development of peaceful cooperation among nations.

Mr. LEGUIA ROSS (Peru) also thanked the Chairman. His country was proud to take part in the work of a group whose importance in the realm of international commercial relations had grown with each session.

M. MAYATEPEK (Turkey) thanked the Chairman and the governments represented on the occasion of Turkey's becoming a contracting party.

2. Item 16 - Report of Intersessional Working Party on Withdrawal of Concessions from Schedule XX (GATT/CP/106)

M. CASSIERS (Belgium), as Chairman of the Intersessional Working Party, introduced the report. He reminded delegations that much importance had been attached to this subject in Torquay by all the contracting parties, as well as by Czechoslovakia, Italy and France, the contracting parties most concerned with the actual withdrawal by the United States. The Working Party had been particularly concerned as to whether the terms of Article XIX had been respected by the United States. It had been suggested that judgment as to whether the terms of the Article had been fulfilled rested with the country

invoking the Article and that a country which objected to the withdrawal could only request compensation. The Working Party decided, however, that any country which invoked Article XIX was obliged to respect the provisions of the Article and that the Contracting Parties had the capacity to judge the matter. The Working Party had reviewed the case carefully in the light of the conditions set forth in the Article: namely that there should be an abnormal development in the imports of the product in question, that the increased imports must be the result of unforeseen developments and of the tariff concession, that the increase took place under such conditions as to cause or threaten serious injury to domestic producers, and that the withdrawal or modification of the concession must be limited to the extent and time necessary to prevent or remedy such injury. The Working Party considered that an increase had occurred under conditions such as to warrant action under the escape clause. They were obliged to recognise that they could not decide on the question of serious injury. The final conclusion that the withdrawal should be limited to the extent and time necessary and that the United States should keep the situation under review and restore the concession as soon as practicable was, in his view, of the utmost importance. If this were accepted, a precedent for dealing with such cases and an interpretation of Article XIX of great value for the future would be established.

Dr. van BLANKENSTEIN (Netherlands) agreed that there was no conclusive evidence that the United States had acted contrary to the Agreement. The Netherlands was not, however, happy with the conclusion of the Report. It was clear that the main reason for the United States action was a reduction in employment in certain sections of the economy. Such a precedent would certainly be studied by governments in view of the important question of a policy of full employment in a time of economic recession that would inevitably someday arise. In fact, it was already apparent that the case had been viewed in that light in the United States. He referred to Article VII of the Trade Agreements Extension Act providing that a downward trend in employment should be taken into account in any applications under Article XIX, and that not only actual, but relative increases in imports with respect to domestic production should be taken into account. This was a very far-reaching result of the present case and he therefore particularly welcomed the conclusion of the report that action under Article XIX should be regarded as of a temporary nature and kept under review.

Mr. CALDER (United Kingdom) thought this case provided an interesting example of the procedure provided for in Article XXIII. It was interesting to note that the governments, other than the two directly involved, had been able to agree on the interpretation of the Article and on the conclusions and recommendations of the Report. This was a document that would have continuing value in relation to the interpretation of Article XIX and he suggested that the Contracting Parties should approve the report as a whole and that it should be adapted for eventual publication as a report of the Contracting Parties.

Mr. DI NOLA (Italy) considered this Report one of the most analytical and conscientious ever submitted to the Contracting Parties. The Working Party recognised first that no conclusive evidence had been brought that the action taken by the United States constituted a breach of its obligations

under the Agreement. The impression gained from the Report, however, was that although the measure might have been justified by events at the time when it was taken, the change in the situation since made it doubtful that the measure was really necessary. From the analysis of the facts, and notably of the provisions of Article XIX, the Working Party arrived at the recommendation that the United States Government should restore the concession on hat bodies in whole or in part as soon as it became clear that its continued complete withdrawal could not reasonably be maintained to be permissible under Article XIX. The Italian Delegation was entirely in accord with this conclusion and hoped that the development in the production and trade in hat bodies on the American market would be such as to permit the United States Government to modify the withdrawal and that the tariff could soon be reduced to its 1947 level, which was already very high. The Italian Delegation expressed this hope because the export of hat bodies to the American market would contribute appreciably to diminishing the trade deficit between the two countries. In fact the efforts of the Italian producers to increase their exports to the American market was certainly in accord with the views of the latter.

The minute examination by the Working Party of the provisions of Article XIX showed the care that should be exercised in making use of these provisions. Only if the concessions exchanged among the contracting parties had a certain stability could there be confidence in the benefits of the Agreement. The Agreement was flexible and contained escape clauses because greater rigidity would have been neither workable nor acceptable. It was, however, the existence of these escape clauses that gave rise to a certain alarm over the powers given to some governments by internal laws which covered the same field as the General Agreement and which frequently resulted in uncertainty as to the value or advantages obtained after long and difficult negotiations. On the other hand commercial policy measures should be considered as a whole. There would be little use in stability in customs tariffs if the normal conditions of competition were altered from one moment to the next by new import restrictions or by the grant of new subsidies for production. With regard to the latter question the Italian Delegation wished to inform the United States Delegation of the concern which a measure recently adopted by the American Government had caused to Italian lemon producers. This was a matter of great interest to the Italian economy and his Delegation hoped that the conversations between the two governments would result in a satisfactory conclusion.

M. LECUYER (France) said that the Contracting Parties were aware of the fact that his Government considered the measure taken by the United States regrettable and damaging. He wished to underline the importance of this Report for the interpretation of the General Agreement. All contracting parties agreed that Article XIX was an indispensable part of the Agreement and also that its application might be open to abuse. The Report of the Intersessional Working Party would serve as an interpretation of Article XIX and as a guide to governments lest they should wish to invoke this exceptional clause too lightly.

Mr. COUILLARD (Canada) thought the report showed the seriousness and conscientiousness with which the parties to the dispute had placed the

facts before the Contracting Parties. Such respect for the provisions of the Agreement was very gratifying to his delegation and he was prepared to accept the report of the Working Party. In the sense that the procedures of the General Agreement had been strictly adhered to and the facts of the case in question very carefully studied he was prepared to regard the report as a precedent. He could not agree, however, that it established a precedent in the application of Article XIX as it was clearly unlikely that similar circumstances and conditions would again arise. In his view the essence of the report and of the precedent it established was the respect shown to the procedures of the Agreement and the assurance it gave that any case put before the Contracting Parties would be carefully studied on its merits.

Mr. SVEINBJØRNSSON (Denmark) thought that the thorough study given to the question by the Working Party was very useful. He agreed as to the need for the escape clause, but thought it particularly important to ensure that it be not abused. Countries must be able to count on stability in the concessions and he was not certain that, had he been a member of the Working Party, he would have agreed with all the findings of the Working Party. He referred particularly to paragraphs 34-35, which seemed to mean that the members of the Working Party agreed that countries should be free to protect uneconomic industries by means of sufficiently high tariffs. The idea that by tariff reductions no damage should be done to existing industries was, it seemed to him, very dangerous and against the basic idea of the Agreement. The United States Delegation had indicated in Torquay that numerous requests for the invocation of the escape clause had been made and that this was the only request that the Tariff Commission had granted. If this were an exceptional case, which would be very gratifying, he wondered whether it was necessary for the Contracting Parties to take any action on the report. Only three countries had been directly involved in the matter. Of these three Czechoslovakia could no longer have any direct concern and he understood that the compensatory concessions received by France and Italy had been accepted. It would be preferable not to take a decision now which might prejudice a case under Article XIX, should such a case arise again.

Mr. TAUBER (Czechoslovakia) did not agree with the conclusions of the report. His Government considered this a violation of the Agreement and the fact that the United States was the strongest economic power among the Contracting Parties did not give them the right to proceed from one violation to another. So far there had been three major violations of the Agreement and always by the United States.

He referred to paragraph 6 of the report containing figures for the increase in imports. In his view it was inappropriate to use the 1947 figures as a basis of comparison as production in Europe in the years immediately following the war was obviously occupied with reconstruction. Paragraph 7 gave the percentage reduction in the rate of duty that occurred in 1947 but did not state that, after the reduction, the tariff was higher than 70% and very much the highest in the world. The actual height of the tariff was a factor that should have been taken into account in consideration of the matter. He was unable to understand the logic of the other members of the Working Party who agreed that unforeseen developments should be

interpreted to mean developments occurring after the negotiations which negotiators could not reasonably be expected to foresee, and that a style change did not come under this definition, but then agreed that the type and scope of the change could be called an unforeseen development.

Paragraph 14 indicated that the production had decreased between 1948 and 1949. All United States production had decreased in that period, however, and the figures for 1950 production were no lower than those of previous years. Paragraph 18 gave the decrease in the employment figures in the hat industry but did not show the increase that had taken place in 1951. In fact, paragraph 22 showed that there was no question of protecting the local industry but rather that the concession was withdrawn in order to make possible the development of new lines of production. Finally, it did not appear to him that the conditions for the application of the escape clause had been fulfilled and it was apparent from the conclusion of the Working Party in paragraph 30 that there was considerable doubt on this matter, since the final judgment was left to the United States. Final proof that this measure was taken in violation of the General Agreement could be found in the Trade Agreements Extension Act, where Article XIX was included in contradiction to the spirit and letter of the General Agreement.

Mr. HOLLIS (United States) agreed to the proposal of the United Kingdom that the report be published. He wished to refer to one of the remarks of the Chairman of the Working Party, which seemed to imply that the United States had objected to examination by the Working Party of the appropriateness of the United States action. Apart from one difference of interpretation between the United States and other members of the Working Party, the United States view being that the decision as to whether the provisions of Article XIX had been complied with was within the province of the contracting party making use of the escape clause, the United States had never objected to consideration of the matter by the Contracting Parties or by the Working Party. He expressed the appreciation of his Government for the understanding manner in which the examination had been carried out. He also wished to state that the United States Government had not waited for formal approval of the report by the Contracting Parties, but that the President had already written to the Chairman of the Tariff Commission, bringing the report of the Working Party formally to his attention, and requesting the Tariff Commission to examine carefully the course of developments in the matter in order to see if it would not be possible partially or completely to restore the concession.

M. CASSIERS (Belgium) complimented the Deputy Executive Secretary and Mr. Burgess of the United Kingdom Delegation on their valuable contributions to the work of the Working Party.

The CHAIRMAN said that there were two proposals before the meeting. The United Kingdom had proposed that the report be adopted as a report of the Contracting Parties and published, and the Danish Delegation had proposed that the Contracting Parties simply take note of the report without taking any formal action on it.

M. CASSIERS (Belgium) said that it was his understanding that all the contracting parties who had spoken, with the exception of Denmark, had found the report acceptable. He asked the Danish delegate whether the report was entirely unacceptable to him or if he would be willing simply to have his statement included in the record.

Mr. SVEINBJØRNSSON (Denmark) said that he had only raised the question as to whether it was, in fact, necessary for the Contracting Parties to take a decision on a case that was exceptional and no longer of practical interest, but one that might prejudice the consideration of later applications under Article XIX. He emphasised that his delegation would not like to have his intervention interpreted as if he agreed with the Delegate of Czechoslovakia who had considered that the United States action had been taken in violation of the General Agreement. No delegation had supported his suggestion and as it therefore seemed that all contracting parties were in favour of accepting the report he would withdraw his suggestion and not oppose the idea of having the report made public, on the understanding that it would appear from the records that he, for the reasons he had explained, would have preferred to see this question left open.

The report was adopted, subject to the statement by the Delegate of Denmark and the opposition of the Delegate of Czechoslovakia.

It was agreed that the report be published.

Mr. TAUBER (Czechoslovakia) said that adoption of the report might imply approval of certain domestic legislation in the United States which could have a bearing on the consideration of Item 30 (United States restrictions on the import of dairy products).

Dr. van BLANKENSTEIN (Netherlands) disagreed that adoption of the report implied approval of United States domestic legislation, particularly when the legislation had been adopted after the drawing up of the Report.

The CHAIRMAN said that adopting the report carried no implications of approval or disapproval of domestic legislation. The Contracting Parties were simply concerned with a specific case arising under Article XIX.

The meeting adjourned at 1.05 p.m.