GENERAL AGREEMENT ON TARIFFS AND TRADE

FIRST SESSION OF THE CONTRACTING PARTIES

SUMMARY RECORD OF SIXTH MEETING

Held at the Capitolio, Havana, Cuba, on 12 March 1948 at 2.30 p.m.

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

Report of Sub-Committee on Supersession and Amendments

The CHAIRMAN announced that this sixth meeting had been convened to discuss the Report of the Sub-Committee on Supersession (GATT/1/ST.) which had been appointed at the previous meeting; the Report of the Sub-Committee included two draft protocols, and an addendum to the Report had been issued containing three suggested amendments by the representative of Australia. He called upon Mr. Speekenbrink, who had been elected Chairman of the Sub-Committee, to present the Report.

Mr. SPEEKENBRINK (Netherlands) in describing the main features of the Sub-Committee's Report drew attention to the following:

The Sub-Committee recommended a procedure whereby the representatives of those countries which were applying the General Agreement could sign the new protocols with powers similar to those with which they had signed the Protocol of Provisional Application, while the remaining signatories would require only powers similar to those with which they had signed the Final Act at Geneva. The Sub-Committee's Report contained a draft resolution, in terms of paragraph 5 of Article XXV, which would waive the obligations of the Agreement in respect of the plans of the French Government for a customs union with Italy. The Sub-Committee had asked the representatives of France and the United States to submit recommendations on the question of increases in bound rates of duty which might arise from that provision of the new Article relating to customs unions which requires that the duties imposed at the institution of a customs union should not be on the whole higher than the general incidence of the duties previously applicable in the constituent territories. The most important change proposed in Article XXIX was the omission of the 60-day period after the closing of the Havana Conference;
for the lodging of objections to the suspension and supersession of certain parts of the Agreement by the corresponding provisions of the Charter. Article XXXIII had been amended to give effect to the recommendation of the Heads of Delegations of the United Nations Conference that the unanimity rule for accession to the Agreement should be amended to a two-thirds majority, but in connection with the resultant problems of relations between a new contracting party and those old contracting parties with which no tariff negotiations had taken place, alternative provisos had been inserted in the draft protocol for further consideration. Finally, a second draft protocol had been prepared to provide for the supersession of Article XIV by the new text of Article 23 of the Charter; this change would not become effective until 1 January 1949 and the protocol would remain open for signature until 1 June 1948.

The CHAIRMAN stated that the meeting would have to be brief because of a meeting of the Conference which was to follow, but there would be time for a preliminary discussion of the protocols to be followed by a more detailed examination at the next meeting, and meanwhile the representatives could ask their governments for powers to attach their signatures.

In reply to a question by Mr. MAHADEVA (Ceylon) regarding the implications of signing the protocols by those signatories to the Final Act who were not applying the Agreement under the Protocol of Provisional Application, it was explained by the representatives of France and the United States that signature would merely serve to authenticate the text of these new protocols unless and until the governments actually became contracting parties, but meanwhile the protocols would have the effect of modifying the text authenticated at Geneva. The Chairman suggested, and it was agreed, that this understanding of the implications of signature should be mentioned in the record of the meeting.

Mr. HOLLOWAY (South Africa) asked for further clarification. He inquired whether by signing the new protocols the 14 signatories would commit themselves to the choice of either ratifying the Agreement as amended or rejecting the whole Agreement. In reply the Chairman said that the 14 signatories would be authenticating the changes in the text just as at Geneva they had authenticated the original text by signing the Final Act; if later they become contracting parties by signing the Protocol of Provisional Application or under Article XIV they would be bound by the Agreement as amended.

Mr. HOLLOWAY then stated that in his opinion signature of the protocol involved more than just the authentication of the text as it would limit the rights and the choice of the governments; it meant that the governments would have to agree to the changes before authorizing signature. In any event Mr. Holloway thought that it was unlikely that he could obtain authority to sign the protocols on
the protocols on such short notice in view of the imminent dissolution of the South African Parliament. His Government could, no doubt, agree without delay to some of the provisions of the protocol, but the new paragraph 6 of Article XXIX, for example, might be unacceptable.

Mr. LEDDY (United States) said that signature of the new protocols would not mean a limitation of choice any more than did the signature of the Final Act at Geneva, and that authentication of the text should not require ratification any more than in the earlier case.

Mr. LEDDY and also Mr. ROYER (France) agreed with the representative for South Africa that amendment of the new paragraph 6 of Article XXIX was desirable in order to limit to members of the International Trade Organization the provision that no contracting parties shall invoke the provisions of the Agreement so as to prevent the operation of any provision of the Havana Charter after it has entered into force. Mr. MAHADEVA (Ceylon), Mr. ROWE (Southern Rhodesia) and Mr. HAKIM (Lebanon) also joined the discussion.

Mr. HOLLOWAY agreed that the opportunity for delayed signature which had been suggested would not be an answer to his objections.

In adjourning the meeting the Chairman said that no doubt all the representatives were in the same position as Mr. Holloway in that they had to cable their governments for instructions.