GENERAL AGREEMENT ON TARIFFS AND TRADE
Contracting Parties
Second Session

SUMMARY RECORD OF THE FIFTH MEETING
Held at the Palais des Nations, Geneva
on August 19, 1948 at 10:00 a.m.

CHAIRMAN: Hon. L. D. WILGESS (Canada)

MODIFICATION OF THE GENERAL AGREEMENT (continued discussion)

Mr. LEDDY (United States) affirmed his Government's objection to the sweeping substitution of Part II of the General Agreement by the corresponding parts of the Havana Charter. Such action would appear to legislatures which had not yet considered it to put the Charter into effect before they had had an opportunity to examine its contents; and this might prejudice its acceptance. These arguments would not, however, apply to the replacement of one or two articles, e.g. Articles III and XVIII, each considered on its merits and designed to meet a demonstrated need. As for the addition of new articles proposed by the Brazilian representative, no practical purpose would be served by the incorporation of these provisions, as they would in any case not be operative for two years.

Sir OLIVER GOUNETILLEKE (Ceylon) said that matters of vital importance to the smaller nations had not received sufficient consideration by the larger nations. The only item on the first provisional agenda of major importance had been brushed aside by the representatives of these nations without advancing any substantial reason. Furthermore, the proposed supersession would encourage the accession of other countries to the General Agreement.

Mr. PANDO (Cuba) supported the representatives of
Ceylon, India and Norway and suggested that two possibilities should be considered: either the provisions of the Havana Charter should be incorporated by way of the complete replacement of all corresponding articles, or certain articles, such as 26, 37 and 28 as proposed by Brazil, should be added to the Agreement.

Mr. MOUSSALLI (Lebanon) stated that since Lebanon and Syria were members of a customs union all the arguments advanced earlier by Syria were supported by Lebanon. The General Agreement had been drafted as a provisional instrument and there should be no doubt regarding the supersession now of the articles as revised at Havana.

Mr. LECUYER (France) felt that although the General Agreement and the Havana Charter could be regarded as two completely separate documents from a legalistic point of view, the origin of the former agreement and the way in which it was drafted showed that it was only a provisional or interim instrument for the implementation of the principles embodied in the Charter. In order to show the good faith of the Contracting Parties the provisions of these two documents should be made as close to each other as possible. However, he did not favour an unconditional complete replacement but thought that the articles in question should be considered individually.

Mr. SHACKLE (United Kingdom) stated that his delegation would not take an extreme view on this question. While sympathizing with the position taken by the representatives of India and Ceylon, he believed that practical considerations should also be taken into account. The participation of the United States was essential for the establishment and existence of the ITO and its particular difficulties
therefore should not be neglected. The Charter was a balanced and comprehensive instrument which could only be put into effect as a whole. For the full implementation of the provisions of the Charter it would be necessary that discretion should be given to the Organization, but it was clear that the Contracting Parties were not in a position to perform these functions. He proposed that a working party be appointed to consider which articles should be replaced.

Mr. NORVAL (South Africa) supported the Canadian proposal, but for different reasons. He contended that it would be to the advantage of the under-developed countries, depending for their economic progress on outside investment and technical assistance, that certainty and stability should be secured. Frequent changes in their international obligations would be harmful to their economic development. Since the provisions of the General Agreement were not unreasonably restrictive and since past experience had shown that the industrialized countries were usually considerate in tariff negotiations, it was inadvisable to tamper with the General Agreement more than was absolutely necessary.

Mr. HASNIE (Pakistan) stated that the Agreement would be submitted to the Parliament of Pakistan next month, and the Government would find it embarrassing to have to explain that many of its provisions were already obsolete and would be replaced later by the provisions of another document. He was particularly anxious that the revised article on freedom of transit should appear in the Agreement, but he would prefer not to consider individual articles as
this would complicate the matter without solving the legislative problem.

Mr. SPEEKENBRINK (Netherlands) stated that the paramount purpose of the present meeting was to secure a long and vigorous life for the General Agreement. The provisions of the Havana Charter were on the whole better than those of the General Agreement, but nevertheless the latter was a document that could take effect immediately. The Government of the Netherlands intended to present both the Agreement and the Charter to Parliament in October or November and would prefer not to have any further protocols.

Mr. TONKIN (Australia) stated that he had no overriding objection to the complete replacement of the corresponding articles before the Charter came into effect, but he questioned the urgency of the matter. Some questions had not been decided at the Havana Conference and, therefore, he would expect further consideration to be given to those questions at this Session. The United States representative had stated that he would be prepared to consider replacement of Articles III and XVIII. Since these were articles in which the main difference of substance lay, it would seem that the United States representative in fact had gone a long way to meet the proposals of the other representatives. As regards the addition of new articles proposed by the representative of Brazil, cogent reasons had been advanced and action should be taken. All these questions should not be dealt with on a basis of expediency. He supported the proposal to appoint a working party to consider the matter.

Mr. LEDDY (United States) stated that his delegation did not disagree with the substance of the amendments that
had been proposed and they were willing to recommend to their Government the replacement of the articles relating to economic development and internal taxation. As for those articles relating to preferences and export subsidies, the replacement of the articles was unacceptable because they could only be implemented as a part of the whole programme laid down in the Charter. In order to indicate the willingness to uphold the spirit of the Charter within the powers of the executive branch of his Government, he was prepared to support certain amendments proposed to Article XXIX.

Mr. NICOL (New Zealand) said that the representative of Australia had anticipated what he was intending to say. As the instructions from his Government related only to replacement, his delegation held no instructions on the question of addition and he would therefore welcome some positive proposition so that he could cable his Government for instructions.

Mr. LIEU (China) was in favour of total replacement but would, in view of the willingness shown by the United States representative to take up the questions of the replacement of the articles on economic development and internal taxation, no longer insist on it. If all of the representatives could show their confidence in the Charter by accepting the proposed complete replacement, then at least there would have been twenty-two countries showing their readiness to ratify the Havana Charter. He supported the proposal to appoint a working party.

Mr. AUGENTHALER (Czechoslovakia) said there were four proposals, namely: the Norwegian proposal for the complete
replacement of Part II, the French proposal for the replacement of certain articles, the Brazilian proposal for the insertion of additional articles, and the Australian proposal for the creation of a working party. He moved the closure of the debate and suggested that the CHAIRMAN should take the sense of the Contracting Parties on these four points.

Mr. RODRIGUES (Brazil), speaking against the motion of closure which he thought was too premature, felt that many arguments were yet to be advanced and full explanation and clarification were still needed.

Mr. ADARKAR (India), speaking for the motion, thought that the subject was a familiar one which had been fully studied and discussed. Since every delegate had spoken on the subject it would be advisable to close the debate to avoid repetition.

Mr. U SAW OHN TIN (Burma) was against the motion on the ground that fuller discussion was called for in view of the magnitude of the questions involved.

A vote was taken and the motion was rejected by 13 to 6.

The meeting closed at 1:00 p.m.