Tariff Negotiations

TARIFF NEGOTIATIONS COMMITTEE

Summary Record of the Second Meeting

Held at Hotel Verdun, Annecy, on Thursday 28 April, 1949, at 2.30 p.m.

CHAIRMAN: Mr. W. Muller (Chile)

Subjects discussed:

1. Rules of Procedure - Proposal of the Chairman
2. First Report on the Progress of the Negotiations
3. Report on Recent Changes in the Tariff of Finland
4. Communication from UNESCO concerning Negotiations on Educational, Scientific and Cultural Materials

1. Rules of Procedure - Proposal of the Chairman (Documents GATT/TN.1/12, and GATT/C/2/3 Rev.2)

The CHAIRMAN presented his proposal that the rules of procedure of the Contracting Parties subject to the amendments proposed, be adopted by the Tariff Negotiations Committee.

Mr. WYNDHAM WHITE, Executive Secretary, said that certain delegates had expressed doubts about the desirability of omitting Rule 6 of the Contracting Parties' Rules of Procedure. He explained that the members of the Tariff Negotiations Committee were covered by the credentials they had presented as government representatives attending the GATT session. With regard to Rule 9, it was suggested in GATT/TN.1/12 that the second sentence was not relevant to the Committee; this was also the case for the third sentence, which should also be omitted.
The Rules of Procedure, as proposed in GATT/TN.1/12 and amended in accordance with the Executive Secretary's suggestion, were adopted.

2. First Report on the Progress of the Negotiations
   (Documents GATT/TN.1/A/6 and GATT/CP.2/26)

   Mr. KUNLIN (Sweden), Chairman of the Tariff Negotiations Working Party, presenting the report, said the Working Party had held three meetings during which it had interviewed delegations to fix meetings for the opening of negotiations. The results of its activities were indicated in the report under discussion. Altogether 118 meetings had been arranged up to 26 April. In some cases there had been unavoidable delay in starting negotiations; certain Governments had not been able to produce request lists before the session with the result that other delegations had been obliged to consult their Governments before presenting lists of offers. Moreover certain delegations were not large enough to undertake negotiations with a number of countries simultaneously. The Working Party had requested those delegations that had not yet received instructions from their Governments concerning their request lists, to expedite matters as much as possible. In spite of the difficulties, the Working Party hoped to be able to arrange initial meetings in the outstanding cases for the very near future.

   Mr. WASSARD (Denmark), supported by Mr. SHACKLE (United Kingdom), while paying a tribute to the achievements of the Working Party, said a number of delegates hadgrave doubts as to whether the session could end on 15 June as originally contemplated. He noted from the Working Party's report that several initial meetings had been fixed for dates very close to 15 June. For a number of reasons it was undesirable to prolong the duration of the session, e.g. the difficulty for delegates holding key positions in their own countries to be absent for a longer period, the increase of expense, the loss of prestige and interest on the part of the public which would reflect on other international bodies, etc. He,
therefore, suggested that those delegations which already foresaw that they could not finish negotiations by 15 June, be invited to communicate with the Working Party with a view to drawing up a plan and fixing a final date. All delegations would then be able to arrange for such of their members as were not indispensable for the outstanding negotiations after 15 June, to return to their countries.

The CHAIRMAN agreed that the question was one of great concern for all delegates. He proposed that the attention of the Working Party be drawn to the observations made at the present meeting and that it be asked to get in touch with delegations, as suggested by the delegate for Denmark, with a view to taking steps to expedite termination of the negotiations. The Working Party should be asked to report on the results of their efforts to the next meeting of the Committee.

The proposal of the Chairman was adopted.

Mr. di NOLA (Italy) read a statement concerning the new Italian tariff, which is appended in extenso to the present Summary Record.

Mr. SHACKLE (United Kingdom) pointed out that paragraphs III: 2 and 3 of the Memorandum on Tariff Negotiations (GATT/CP.2/26) to which the Italian delegate had referred, recommended that the general principles of the Havana Charter should be applied in the event of any modification of tariffs. It was a matter of common concern for all delegates present to be satisfied that those principles were observed. The Italian delegate had said the new tariff was not a "fighting tariff"; but Mr. Shackle felt bound to say that on the basis of the examination his delegation had made of items of particular concern to the United Kingdom, it seemed clear that the effect of the change was to improve the bargaining situation of Italy, even if that had not been the purpose. He quoted examples to show that certain new duties were double the duties on an ad valorem basis in 1937.
He was glad to learn that the 10% import licence tax would disappear when the new tariff came into effect. He felt the question of the devaluation of the lire needed examination in the light of detailed figures which he trusted the Italian delegation was in a position to furnish. He would reluctantly agree that at the present stage there should be no examination in a Working Party as to how far the provisions of paragraphs III: 2 and 3 of GATT/CP.2/26 had been satisfied, since he understood that such a course would not be welcome to the Italian delegate. He must, however, reserve the right of his delegation to bring the matter up again in the Committee if, in the course of the bilateral negotiations, they were not satisfied that the new tariff formed a satisfactory basis for negotiations and if it were felt that the starting point should not be the new tariff but a tariff which simply compensated for the devaluation of the lire. In other words, his delegation could not in view of article 17 of the Havana Charter regard the binding of a duty higher than the pre-war rate as a concession.

Dr. AUGENTHALER (Czechoslovakia) said he would not comment on incidence of the new tariff as his delegation had not finished its examination. He wished, however, to ask the Italian delegate whether the tariff which had been circulated to governments was still a draft and substantial changes must be foreseen or whether it had been approved by Parliament.

Mr. di NOLA (Italy) replying to the remarks of the United Kingdom delegate, thought a detailed comparison would show that the incidence of the new rates was not higher on the average than that of the former rates. In order to make such a comparison, it was necessary in the first place to decide upon a base year. As regards Italy, the last normal pre-war year was 1934. Ad valorem statistics were not sufficiently reliable to form the basis of a comparison. The new
Italian tariff had been based on the effective price of each commodity compared with the pre-war price on other markets and he felt sure that during bilateral negotiations it would prove possible to make a comparison of the incidence of the new rates by a technical examination item by item. It must not be forgotten that the tariff was a new one which included new items resulting from changes in the structure of industry, changes which also necessitated an increase in the case of certain items.

With regard to the item, mohair wool threads, mentioned by the United Kingdom delegate, it was true that there had been an increase, but it must not be overlooked that the tariff contained a footnote to the effect that import of that product might also be allowed free of duty. Thus, while endeavouring to protect her own industries, Italy had not forgotten the interests of other countries. As regards the other items mentioned by Mr. Shackle, he maintained that a detailed examination would show that the incidence of the duties was not increased.

Replying to the remarks of the delegate for Czechoslovakia, Mr. di Nola said the new tariff was to be presented to Parliament very shortly and might be approved before the end of the Annecy session. He understood the preoccupations of delegations which were asked to negotiate on the basis of a draft tariff; but the draft had been sent to foreign governments by the Italian Government with a statement sponsoring it as the basis for the Annecy negotiations. He thought the situation was identical with that of the French tariff during the Geneva negotiations in 1947. That tariff had also been a draft; it had later been approved by Parliament and no difficulty had arisen.

Dr. AUGENTHALER (Czechoslovakia) pointed out that the Italian Government appeared to have based its calculations on a comparison with duties and prices in 1934 whereas for the Geneva calculations, the last
pre-war year 1937-38 had been the basis. He did not feel the arguments given in favour of 1934 were very convincing; in that year there was a crisis and prices were at the lowest level and, therefore, the incidence of tariff rates was high.

Mr. CASSIERS (Belgium) was willing, so far as his delegation was concerned to accept the suggestion of the Italian delegate to examine with each delegation the incidence of the duties in order to decide upon a basic year for comparison. But this was a preliminary question which the CONTRACTING PARTIES should have been in a position to examine before the negotiations began. Referring to the Italian delegate's remark that 1934 had been the last normal pre-war year in Italy, he enquired whether Mr. di Nola could give the Committee the results of the computation of the incidence of tariff rates in 1934 which his Government had undoubtedly made when drawing up the new tariff. If agreement could be reached as to the base year for the calculation of the incidence of the tariff, there must also be acceptance of the underlying principle adopted in London and confirmed in Geneva, namely that the basis for negotiations was the actual tariff and not an increased tariff. He referred to the rule laid down in the General Agreement that when a country entered into a customs union with another country, the common tariff should not exceed the average level of the two tariffs taken conjointly. If, therefore, when a country felt obliged to establish a new tariff, it established a higher tariff, it would be complying neither with the principle which must guide the present negotiations nor with the principle concerning the creation of a customs union. He considered that agreement must be reached in good faith on these points if the negotiations were to achieve satisfactory results.

Mr. KEMP (Canada) thanked the Italian delegate for his statement and the explanations he had given in reply to the various points raised and asked that copies should be made available to delegates. The study
of the draft tariff, which his delegation had not received until arriving at Annecy, was a difficult task since it varied radically from the present tariff. His delegation, like others, feared that the ad valorem rates would increase the difficulty of negotiating. He quoted rates for products in which his Government had a particular interest, which showed substantial increases. The Canadian delegation would have great difficulty in accepting 1934 as the basic year, if only for the reason that while 1934 might have been a normal year for Italy, it was far from normal in other parts of the world. They could not undertake to explain to people in Canada that the only results of tariff negotiations with an acceding country had been a substantial increase in the tariff level of that country. Canada was interested not only in commodities of which she was a principal supplier; the general level of tariffs was also a matter of concern. The Canadian delegation, while accepting the Italian delegate's invitation to discuss details during bilateral negotiations, hoped that the high rates in the draft tariff would not be insisted upon when the final rates were negotiated.

Mr. di NOLA (Italy) thought there had been some misunderstanding concerning his mention of the year 1934. For the purpose of a comparative study of the incidence of tariffs, a pre-war year must be selected. So far as Italy was concerned, 1934 was a normal year. That, however, did not mean that 1934 had been taken as the base year for the new tariff; later years had in fact been used. In 1934 price levels were particularly low so that the incidence of ad valorem rates on particular commodities was high. But in 1934 there were no prohibitions and therefore the level of prices reflected the impact of free trade. If in negotiating, another year were chosen, the same results would be arrived at, provided the devaluation of the lire were taken into account. Mr. di Nola stressed his opinion that detailed examination was necessary in each case and maintained his conviction that
whatever year was selected as base, it would be seen that the incidence of the new tariff was not higher than that of the present tariff.

Mr. WILLOUGHBY (United States) said the Italian delegate had been very helpful in bringing the matter before the Committee. While his delegation had not yet had time to make an exhaustive study of the new tariff, such items as they had studied had led them to similar conclusions as those reached by the United Kingdom and other delegations. It had not been apparent to his delegation that the tariff did represent a reasonable basis for negotiations within the meaning of the provisions of GATT/CP.2/26. The United States delegation, however, welcomed the suggestion of the Italian delegate that the matter should be discussed bilaterally.

Mr. SHACKLE (United Kingdom) said his delegation felt that import statistics were the only reliable basis for a comparison of the incidence of the two tariffs; no reliance could be placed on indices of price levels. Since the Italian delegate considered that 1934 was the nearest approximation to a normal year for his country, Mr. Shackle asked whether he could make available the Italian import statistics for that year.

Mr. di NOLA (Italy) replied that the statistics could be made available to any delegation that required them.

The CHAIRMAN thanked the Italian delegate for his clear and frank statement and suggested that the Committee was not called upon at the present stage to reach any conclusions; the question would be more fully explored in bilateral discussions between the Italian and other delegations. The Committee might, therefore, at the present stage take note of the Italian statement and of the fact that it would be open for other delegations to revert to the general aspect of the problem in
the Committee in the event of its proving impossible to reach a satisfactory conclusion on those general aspects in the bilateral discussions.

The Chairman's suggestion was adopted.

3. Report on Recent Changes in the Tariff of Finland (Document GATT/TN1/A/5)

Mr. KUMLIN (Sweden), Chairman of the Tariff Negotiations Working Party, presented the report.

Mr. TUOMINEN (Finland), replying to an enquiry by the CHAIRMAN, said he had nothing to add to the statement he had made to the Working Party.

The report, with certain drafting changes requested by Mr. Tuominen (Finland), was adopted without observations, and it was agreed that bilateral negotiations should take place on the lines indicated therein.


Mr. CASSIERS (Belgium) said that a few days previously the Contracting Parties had decided by a vote of 16 to 0 to ask the Tariff Negotiations Committee to include in its agenda the question of negotiations on educational, scientific and cultural articles. He thought that opportunity might be taken of the presence of technicians at Annecy to examine the question and that this study could best be made by a Working Party, which might consider the possibility of simplifying the long list of items sent in by UNESCO, the questions of the internal legislation which might be involved, and the possibility of entering into negotiations on the items in question during the present session.

Professor RODRIGUES (Brazil) supported the Belgian delegate's proposal.
Mr. WILLOUGHBY (United States), while supporting the proposal to set up a Working Party, said legal requirements in his country would prevent such additional negotiations.

Mr. OLDINI (Chile) said that, while it was true there had been no opposition to a study of the question, the Contracting Parties had felt it might be dangerous to establish such a precedent. It was usual for the CONTRACTING PARTIES only to discuss questions which had previously been submitted to governments for examination and the question under discussion was a particularly complicated one. He, therefore, thought the functions of the Working Party should be restricted to exploring the situation with a view to determining the best procedure and they should not be asked to submit proposals for entering into negotiations during the present session.

Dr. AUGENTHALER (Czechoslovakia) raised two points of procedure. In the first place, the request of UNESCO had been addressed to the Contracting Parties, whereas the present meeting was a meeting of the Tariff Negotiations Committee and included representatives of acceding governments. Secondly, it was usual before a matter was referred to a Working Party for it to be discussed in a plenary meeting. Although not opposed in principle, he considered it advisable to discuss the communication from UNESCO first in a plenary meeting, especially as it concerned other points besides the one under discussion.

Mr. POLITIS (Greece) said the import of scholastic material into Greece was exempt from duty; but the letter from UNESCO was somewhat complex and might involve items which did not fall under that heading. He had no specific instructions from his Government and did not feel that the present session was competent to take action. He, therefore, agreed that the terms of reference of the Working Party should be to study and report on the question.
Mr. FILIPPI (France) agreed that the normal procedure would be to have a general discussion in the first place in a plenary meeting; but that would presuppose that the Working Party could reach definite conclusions. He considered that that could not be the case in the present instance and he, therefore, considered that the Working Party should be essentially a study group to present a report to the CONTRACTING PARTIES on the various commercial, financial and other aspects of the problem. After a detailed discussion the CONTRACTING PARTIES could then advise their Governments and obtain instructions for further action.

Mr. SHACKLE (United Kingdom) entirely agreed with the objectives of UNESCO and thought the Committee might well consider the way in which the matter in question might be handled. If a Working Party were set up, it should first consider whether bilateral or multilateral negotiations would be more suitable. Many countries were already extremely liberal in respect of the articles concerned and if they negotiated with less liberal countries, they would have to make compensatory concessions. It would be preferable to decide on exemption from duty or some especially liberal terms in all countries and, therefore, multilateral negotiations might be more appropriate. UNESCO had submitted a draft convention on books and scholastic material which was probably the right method of dealing with the problem, and it might be possible to give useful advice on such a convention.

Mr. CASSIERS (Belgium), referring to the observations of various delegates, said that he had not intended to ask that definite conclusions should be reached during the present session, but that the question should be studied for future action. With regard to the remarks of the delegate for Czechoslovakia concerning procedure, he pointed out that UNESCO had presented two questions: the inclusion of educational materials in the Annecy negotiations, and the examination of a draft convention. These might be studied in the first instance by a Working Party, and this
procedure would have the advantage of allowing the representatives of the acceding governments to make known their views. He entirely agreed with the suggestion of the United Kingdom delegate that the Working Party should first consider the best means of handling the matter and he proposed terms of reference on the following lines: "To consider, in collaboration with the representatives of Unesco, the communications addressed by that Organization to the Chairman of the Contracting Parties and to make recommendations concerning the proposals contained therein".

Dr. AUGENTHALER (Czechoslovakia) while agreeing to the setting up of a Working Party to study the matter, felt the remarks of the delegate for the United Kingdom had made it clear that there were some very important aspects, discussion on which might afford guidance to the study group. He would, therefore, prefer that the Working Party be set up after further discussion at the next meeting of the Committee. Moreover, according to the Rules of Procedure, proposals to give a mandate to a Working Party must be circulated twentyfour hours in advance, whereas the matter under discussion had not even appeared on the agenda of the present meeting.

On the proposal of the CHAIRMAN, it was agreed that the text of the terms of reference of the Working Party should be circulated to the members and that the question should be placed on the agenda of a future meeting of the Committee.

The meeting adjourned at 5.45 p.m.
Statement by the Italian Delegate

Mr. Chairman,

The Working Party's Report makes it clear that the negotiations relating to Italy, as, indeed, those relating to other countries, have not yet made much progress.

I feel that, so far as my country is concerned, the delay must be attributed in part to the fact that, as the new Italian tariff was only communicated to the Governments concerned on 19 March last, the majority of delegations had not had time to study it before the Annecy Conference began, and some of them had not even received it.

The Italian Delegation very much regrets this delay, which was quite unintentional on the part of the Italian Government, and immediately placed itself at the disposal of all delegations for the supply of any information or explanations which might help them.

As a consequence, several delegations have already been able to communicate to the Italian delegation the list of reductions of duties which they desire to obtain from Italy.

The study of these requests is already largely completed, and my delegation hopes soon to be in a position to commence bilateral negotiations with the delegations in question. Negotiations with the Brazilian delegation have already begun.

I realise that the task of other delegations would be lightened if they were aware of the motives which led the Italian Government to draw up a new customs tariff, and the technical criteria which it followed in doing so. That is why, Mr. Chairman, I ask permission to make a statement on this subject:

When the question of the participation of Italy in the Annecy tariff negotiations was raised during the second Session of the
Contracting Parties held at Geneva in October last, I had the honour of pointing out that the present Italian tariff could not serve as a basis for negotiations and would shortly be superseded by a new one. Although studies had already reached a very advanced stage, there was reason to fear that the new tariff could not be ready before the beginning of the Annecy Conference.

The Italian Government, anxious to make its contribution to the work of economic recovery in which the Contracting Parties are engaged, overcame all difficulties and has managed to send a delegation to Annecy to undertake tariff negotiations preparatory to the accession of Italy to the General Agreement on Tariffs and Trade.

On the same occasion, I also declared that the Italian Government, in drafting its tariff would base itself solely on Italy's economic needs, though with due regard for the legitimate interests of those foreign countries with which it was anxious to maintain the best possible trade relations.

I feel impelled to repeat that declaration today.

* * *

A new tariff had become an absolute necessity for Italy.

As a matter of fact, the present Italian tariff came into force in 1921, and comprised specific duties payable in gold or the equivalent of gold. These duties were subsequently made payable in paper lire by a decree dating back to 1930, since when they have remained unaltered, in spite of the fact that the prices of goods, in terms of Italian lire, have increased to 50 or 60 times what they were, and perhaps even more.

This means that the present tariff is practically non-existent, and the only protection Italian industry and agriculture now enjoy is
that given by the 10% ad valorem licence duty which, although quite useful for revenue purposes, is practically useless for protective purposes, since the producer who is protected by this 10% duty, has to pay it himself on all the raw materials and products he requires for his industry or for working his land.

The Italian delegation will certainly be able to make a favourable announcement on the changes which must be made to the licence duty when the new customs tariff comes into force.

* * *

The question now arises whether the draft tariff, which the Italian Government reserves the right to submit for the approval of Parliament at the earliest possible opportunity, and which, in the meantime, it regards as a basis for the Annecy tariff negotiations, is in conformity with the principles stated in Document GATT/CP.2/26 of 1 September 1948.

In this document it is stated that a country may make a change in the form of its tariff or a revision of rates of duties to take account of either a rise in prices or the de-valuation of its currency, but that such change or such revision would be a matter for consideration during the negotiations, in order to determine the change, if any, in the incidence of the new duties in comparison with the old ones.

It is also stated that "in a few exceptional cases, a general revision of tariffs prior to the negotiations may be found unavoidable" but that "in making any such revision, the countries concerned should have regard to the principles stated in the preceding paragraph".

Before passing to an examination of the incidence of the duties in the new Italian draft tariff, I would like to make the following observations:
1) General revision of the Italian tariff was begun several years ago to meet the need to replace an obsolete tariff by a tariff which took account of changes in the structure of Italian economy, and of progress in industrial and agricultural production. This revision has, therefore, no connection with the Annecy negotiation.

2) The new Italian tariff differs profoundly from the old one:

a) in that it is based on the Brussels nomenclature, which is much more advanced than the nomenclature of the 1921 tariff;

b) in that the duties are ad valorem and payable in paper lire, whereas the duties of the old tariff were specific ones, payable in gold or the equivalent of gold.

I do not think that any one will wish to reproach the Italian Government with having adopted a more modern and more detailed nomenclature and thereby included in its Customs tariff branches of production or new industries not previously included.

I feel too that all will recognise that the adoption of ad valorem duties was a necessity, in view of the existing economic uncertainty and the resultant difficulty in reckoning the difference between foreign and domestic cost prices. In this connection, I would like to point out that, even when tariffs were based on specific duties, the first step was to fix the percentage of protection, i.e. the ad valorem duty, which was subsequently transformed into a specific duty to facilitate collection. Specific duties are, however, no longer in vogue today for the reasons I have just stated.
It must be admitted that these two differences, namely, in nomenclature and in the character of the duties, will give rise to certain difficulties, when the delegations of countries negotiating with Italy wish to compare the incidence of the new duties with that of the old. In certain cases, these difficulties will prove insurmountable, as for example, when dealing with a duty not figuring in the 1921 tariff, but included in the new one, for the reason that, in the meantime, a new industry has been established in Italy.

Apart from these exceptional cases, it is possible to compare the old and the new duties, if they are taken one by one, as will be the case in bilateral negotiations.

Comparison is almost impossible however, or would require extremely difficult and prolonged technical studies, if the duties are considered as a whole.

To return to the question of the incidence of the new duties, Italian experts will undoubtedly be in a position to prove that it is no heavier than that of the old duties.

In examining this question, it must, however, always be borne in mind that, in our case, it is not a question simply of revalorisation of duties to compensate for a rise in prices expressed in Italian lire, but of a completely new tariff.

Certain duties in this tariff relating to industrial products and to agricultural and food products, as well, are undoubtedly lower than the old duties. If an industry has consolidated its position, why should it still have the same protection as was perhaps necessary as far back as 1921? And if a reduction in duties on food stuffs can help to check the rise in the cost of living, why should it not be made?

On the other hand, there existed in the old tariff some purely technical errors which had to be rectified, for example, where the
duty on a finished product was practically the same as the duty on the semi-finished product. Finally, the old tariff had no special duties for certain industries, which did not exist in 1921, and which have been established in the intervening thirty or so years. Should not the progress made by Italian industry, in spite of the war and of all the difficulties we have had to overcome, be taken into account?

But despite these examples, which I have quoted merely in order to show that the case of an entirely new tariff cannot be assimilated to a simple revision of duties, there is no doubt that the incidence of the new Italian duties is not, generally speaking, higher than that of the old.

I apologise for having taken up rather much of your time. May I, however, as a last word, add the following assurance:

The Italian Customs tariff is not an aggressive tariff. It is designed to protect the vital interests of Italian economy. Is is regarded by the Italian Government as a means towards the economic improvement of the country, which cannot be effected without the closest collaboration with all the other countries in the world, that is to say, without the largest possible increase in reciprocal international trade.

Annecy, 28th April, 1949.