Tariff Negotiations

TARIFF NEGOTIATIONS COMMITTEE

SUMMARY RECORD OF THE FOURTH MEETING

Held at Hotel Verdun, Annecy, on Friday 27 May 1949, at 2.30 p.m.

Chairman: Mr. W. Muller (Chile)

Subjects discussed:

3. Procedure to be followed on the Completion of the Bilateral Stage of Negotiations.
4. Saturday negotiations.
1. Establishment of UNESCO Working Party. (Document A/W/6)

The CHAIRMAN invited comments on the Draft Terms of Reference (second revision) for a technical Working Party on the proposals of the Director General of UNESCO, proposed by the representative of Belgium as follows:

To examine, in consultation with the representatives of UNESCO, the most practical means of studying and formulating solutions of the questions raised in Documents GATT/GP/12 and CP/12 Add.1, and to report to the Tariff Negotiations Committee.

Mr. HOLLIS (United States of America) moved that the words "and Add.2" be inserted after the words "CP/12 Add.1" in the last line of the Draft.

Mr. CASSIERS (Belgium) accepted the amendment to his Draft Terms of Reference, moved by the representative of the United States of America.

The Terms of Reference (second revision) for a technical Working Party on the proposals of the Director General of UNESCO, proposed by the representative of Belgium, were put to the vote and adopted unanimously.

At the suggestion of the CHAIRMAN it was decided that the Working Party be composed of the representatives of Brazil, Colombia, Chile, France, the United Kingdom and the United States of America, with the representative of Belgium as Chairman.


Mr. KUMLIN (Sweden), (Chairman, Tariff Negotiations Working Party) introduced the Report and Recommendation.
Mr. SHACKLE (United Kingdom) said that his delegation desired an early and successful end to the present tariff negotiations. With regard to exploratory talks he said that their purpose was not only to ascertain whether a mathematical basis for tariff negotiations existed but also to see whether there was a real basis for such negotiations. He recalled the ruling given by the Chairman of the CONTRACTING PARTIES at an early meeting of the present Session which he still considered as valid, namely that the exchange of offer lists constituted the entry into negotiations. On that understanding he wished to support the Report and Recommendation submitted by the Tariff Negotiations Working Party.

Mr. KUMLIN (Sweden), (Chairman, Tariff Negotiations Working Party) recalled that the principle of exploratory talks was neither mentioned in the General Agreement nor in document GATT/CP,2/26 (Memorandum on Tariff Negotiations), dated 1 September 1948. It had been defined only at the meeting of the CONTRACTING PARTIES in April last. He realised that a number of acceding governments had insignificant trade relations with one another as well as with some of the Contracting Parties and he thought that in such a case one or two exploratory talks would have been useful. It had been decided that exploratory talks be arranged by the Tariff Negotiations Working Party or by the Secretariat so that in any case it could be put on record whether a basis for negotiations existed. In the event of a successful conclusion of exploratory talks, offers lists were exchanged by the parties concerned and formal meetings arranged. That procedure was clearly laid down in document GATT/TN,1/A/1 (Opening of negotiations).

The Working Party on Tariff Negotiations had further clarified the procedure to be followed in document GATT/TN,1/A/4 (Note on the conduct of negotiations). When the Working Party had issued the mentioned rules and recommendations it had been unable to foresee the situation as it existed at present, namely that 50 percent of the 72 exploratory talks
did not result in formal negotiations. In order to find the cause of delay in the undertaking of formal negotiations his Working Party had interviewed some of the delegations that had had the greatest number of exploratory talks but had not entered into formal negotiations. The Working Party on Tariff Negotiations had come to the conclusion that the main reason for delay was to be found in the provision of Article XXXV of the General Agreement, namely that the Agreement was not applicable between any contracting party and any other contracting party if "the two contracting parties have not entered into tariff negotiations with each other, and either of the contracting parties, at the time the other becomes a contracting party, does not consent to such application". For that reason and in accordance with its terms of reference the Working Party had submitted to the Committee a recommendation embodied in document GATT/TN.1/18.

The CHAIRMAN said that as it was probable that the same subject was under consideration by Working Party 2 on Article XVIII he wondered whether the Chairman of that Working Party did not wish to make any comments.

Mr. SHACKLE (United Kingdom), (Chairman Working Party 2) said that the report of his Working Party was not yet ready. He could only say at the moment that in the draft under consideration it was intended to confirm the ruling given by the Chairman of the CONTRACTING PARTIES, namely that the exchange of offers lists constituted the beginning of formal negotiations. Speaking personally he said that he was aware of the desirability of exploratory talks prior to formal negotiations. A definite test was desirable before the exchange of offer lists took place. There was room for doubt whether in certain cases rates had not been increased immediately before the commencement of negotiations, resulting in the unbalancing of the initial basis. He agreed that the prolongation of exploratory
talks should be reduced to the minimum and thought that each case should be considered on its merits.

Dr. AUGENTHALER (Czechoslovakia) thought that the question under discussion was of a serious nature and required careful consideration. He agreed with the ruling given by the Chairman of the CONTRACTING PARTIES and with the remarks made by the representative of the United Kingdom. In order to illustrate the position as it existed at the moment he wished to give the following example:

If his country wished to become a contracting party at the moment, its application would be considered by 22 countries and, for a favourable decision by a two-thirds majority, 15 votes would be sufficient. He would endeavour to conclude successful negotiations with the 15 contracting parties whose exports into Czechoslovakia represented at the most 4.4 percent of its total imports in 1947, namely with Canada, Pakistan, India, Australia, South Africa, Syria, Burma, China, Cuba, Chile, New Zealand, Luxembourg, Rhodesia and the Lebanon. On the other hand, he would not have to make any concessions to the 7 contracting parties whose exports into Czechoslovakia represented 41.7 percent of its total imports in 1947, namely, the United Kingdom and Overseas Territories, United States of America, the Netherlands and its Overseas Territories, Belgium and its Overseas Territories, France and its Overseas Territories, Brazil and Norway.

Thus, out of 46.1 percent of imports from the territories of the contracting parties he would grant concessions on 4.4 percent (i.e. 9.5% from such imports) and he could ignore the 41.7% of the total imports (i.e. 90.5% of the total imports from the territories of the contracting parties). At the same time his country would enjoy all the concessions that were negotiated amongst the 22 contracting parties. On the other hand Czechoslovakia had reduced on the basis of Schedule X of the General Agreement its customs rates for the following acceding governments: Sweden by 26 percent, Denmark by
21.4 percent, Finland by 31 percent, Greece by 30.2 percent and Italy by 30 percent.

Mr. CASSIERS (Belgium) said that his delegation wished to conclude the present negotiations at the earliest practicable date. He associated himself with the remarks made by the representatives of the United Kingdom and Czechoslovakia, namely, that "entering into negotiations" should be further defined. Accessing governments should say whether they were prepared to recognize the Geneva and Annecy concessions and grant corresponding concessions in return.

Mr. OLDINI (Chile) thought that when the terms for exploratory talks had been drawn up it had been impossible to foresee the existing complications. He said that the solution of the problem could be found in its nature. It should be agreed that if the scope for exploratory talks were made wider that in itself would expedite negotiations. Thus, at the exploratory stage a wider survey could be undertaken and provisional offer lists could be exchanged. In that case "entering into negotiations" could mean the exchange of formal offer lists.

Mr. HOLLIS (United States of America) supported the ruling given by the Chairman of the CONTRACTING PARTIES. He thought that the Committee had to consider the application of that ruling to present conditions. He admitted that this solution might be difficult to find in view of the background of Article XXXV of the General Agreement. Prior to the Havana Conference accession had required a unanimous vote; later that provision had been changed to the requirement of a two-thirds majority vote for accession. The United States Government then foresaw certain difficulties with regard to legal procedure and some other countries which had been negotiating at Geneva had also foreseen difficulties of a political nature. It was for that reason that the CONTRACTING PARTIES provided
safeguards in Articles XXV and XXV, 5 (b). If it were admitted that Article XXXV had a manifold interpretation that would have a serious effect on the multilateral application of the General Agreement.

Mr. LECUYER (France) recalled the provision of document GATT/TN.1/A/4. He thought that if Article XXXV permitted several interpretations it would be doubtful whether any negotiations would have taken place at all. Provisional offer lists should be exchanged in order to ascertain whether there existed a real basis for negotiations. An exchange of provisional offer lists did not, in his opinion, constitute an entry into negotiations. The Committee was not in a position to give the interpretation of the meaning of Article XXXV as that Article was drafted for specific purposes. It should be left to the CONTRACTING PARTIES to study the real scope and applicability of that Article and the Committee should limit itself to the indication of what elements had entered into the picture.

Mr. SKAPESSOS (Greece) said that in his view fears that acceding governments would not take into account the Geneva concessions were not justified, and referred to GATT/CP.2/26 where it was admitted that most acceding governments were enjoying, even before accession, the benefit of the tariff reductions incorporated in the GATT.

Mr. CULBERTSON (Dominican Republic) thought that too technical and narrow a definition could hamper the multilateral trade of GATT. The Committee should make a decision in such cases where two parties met and discussed economic relations and where one party decided that there was a basis, and the other party decided that there was no basis, for formal negotiations.

Dr. AUGENTHALER (Czechoslovakia) proposed that the following definition be given to "entering into negotiations": "Countries shall be deemed to have entered into negotiations when offers have been
exchanged and accepted by the parties as a basis for negotiations or the two parties agree not to request mutually advantageous concessions as a basis for negotiations".

At the conclusion of the discussion of this question, the Chairman submitted, and the Tariff Negotiations Committee approved, the following suggested definition as summarizing the views expressed in the course of the discussion:

"Delegations shall be deemed to have "entered into negotiations" for the purpose of Article XXXV only when a formal exchange of offers takes place and is notified by both parties to the Secretariat".

3. **Procedure to be followed on the completion of the Bilateral State of Negotiations (document GATT/TN.1/16)**

The Committee adopted without discussion the recommendations submitted by the Tariff Negotiations Working Party on the procedure to be followed on the completion of the bilateral stage of negotiations.

4. **Saturday Negotiations (document GATT/TN.1/17)**

The recommendations submitted by the Tariff Negotiations Working Party, having been introduced by the Chairman of that Working Party and supported by the representative of Czechoslovakia and the United Kingdom, were adopted.

The Meeting rose at 5:30 p.m.