GENERAL AGREEMENT ON TARIFFS AND TRADE

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SUMMARY RECORD OF THE EIGHTH MEETING

Held at the Palais des Nations at 10 a.m.
on Tuesday 26 May

Chairman: Mr. F. GARCIA OLDINI (Chile)

Subjects discussed:
1. Arrangements for the Fifteenth Session - Question of a Ministerial Meeting
2. German Import Restrictions
3. Rhodesia and Nyasaland - South Africa Trade Agreement
4. Derestriction of Documents
5. Request for Accession by Poland

1. Arrangements for the Fifteenth Session - Question of a Ministerial Meeting

The CHAIRMAN said that he wished to raise the question of whether there should be a meeting of ministers during the fifteenth session of the CONTRACTING PARTIES at Tokyo. He did not intend that there should be a general discussion at this stage, but he hoped that delegations would be ready to take a decision on the question before the end of the session.

2. German Import Restrictions (L/966, L/989, W.14/24)

The CHAIRMAN recalled that it had been agreed at the opening meeting (SR.14/1) that discussion of this item should be postponed until later in the session to permit the consultations with the Federal Republic of Germany under Article XXII of the General Agreement to be continued during the session.

The EXECUTIVE SECRETARY said that when consultations between twelve contracting parties and the Federal Republic under Article XXII had been initiated in January 1959, he had considered it appropriate, in view of his policy that the secretariat should stand ready to facilitate, in any way possible, consultations between contracting parties under the provisions of the General Agreement, to accept the unanimous invitation of the participating countries to preside over the discussions as an independent chairman.

In January, the consultations had been largely concerned with a detailed examination of the German "negative lists", an analysis of the problems involved, and a consideration of the prospects for further liberalization. At the end of this stage, it had been agreed that the contracting parties principally concerned should remain in touch with the Federal Republic, making available to it any suggestions

which they might have as to the basis for an acceptable settlement. Detailed suggestions had been made by a number of contracting parties and the Federal Government, having reviewed the whole matter in the light of the consultations, had elaborated proposals which had been communicated to the consulting countries on the opening day of the session. Since then the consultations had continued and, although there had been an extensive exchange of views on the German proposals, no generally agreed views for presentation to the CONTRACTING PARTIES had been formulated. It was therefore considered that the matter should now be referred back to the CONTRACTING PARTIES for consideration. The proposals of the Federal Government had been submitted to the CONTRACTING PARTIES for examination (L/989) and, in order to contribute to a speedy consideration of the matter, the United States delegation had submitted a paper in the form of a draft decision (W.14/24) reflecting some of the ideas which had emerged during the course of the consultations, with the suggestion that this might prove a suitable working document from which discussion might begin in any working party which the CONTRACTING PARTIES might establish. The Executive Secretary said that it was hoped that the CONTRACTING PARTIES would be able to come to a decision on this matter before the end of the session.

Mr. BEALE (United States) recalled that his delegation had made it clear on a number of occasions over the last two years that they considered the question of German import restrictions to be one of the most important issues ever to face the CONTRACTING PARTIES. If the General Agreement were to continue effectively to further the expansion of international trade on a multilateral non-discriminatory basis, countries must dismantle their import restriction systems when they ceased to be entitled to maintain them for balance-of-payments reasons. The attitude of the Federal Republic, a country which had made a remarkable financial recovery since the war, would vitally affect the future trend of international trade policy. It had been recognized in 1955 when the "hard-core" waiver decision was adopted by the CONTRACTING PARTIES that some countries could not immediately terminate all the restrictions which had been applied since the war without causing some dislocation in the domestic economy. The "hard-core" decision, however, had been intended for use as countries were coming out of balance-of-payments difficulties. The problem now was to work out analogous arrangements for a country whose strong financial and trading position no longer made it necessary for the special balance-of-payments provisions of the GATT to be used.

Mr. Beale said that the new programme proposed by the Federal Republic for the removal of restrictions was a welcome step in the right direction, but it was believed that even further progress towards liberalization could be made. The United States would be prepared to work with the Federal Republic and other interested contracting parties in developing an acceptable programme of liberalization. The United States Government attached great importance to achieving an acceptable solution at this session, since it believed that the continued failure to solve this problem could do serious harm to the General Agreement and might undermine commercial relations between important trading countries in the GATT. The United States delegation had therefore circulated a draft decision which had been drawn up after consultation with the Federal Republic and a number of interested contracting parties and which, it was hoped, would provide a basis for further discussion in a working party.

Mr. KLEIN (Federal Republic of Germany) said that, in the light of the outcome of the consultations under Article XXIII, which he considered to have been most fruitful, the Federal Government had reviewed its import policies and submitted to the CONTRACTING PARTIES new proposals for a solution of the problems involved. He wished to point out that the measures of liberalization contemplated by the Federal Government represented a considerable burden on German economic policy and could not be achieved unless the remaining import restrictions could be maintained, subject to the conditions in the German proposals, for a period of three years. The Federal Government would, however, endeavour to continue to pursue liberal trade policies and to consult with contracting parties during this period on any difficulties which might arise. Many of the questions under discussion had been clarified in the consultations which had continued during the session and his delegation was of the opinion that the draft decision circulated by the United States delegation could be considered as a basis for further discussion. Mr. Klein stated, however, that he wished to reserve the position of the Federal Government with regard to the draft decision. Although there were a number of points in the draft which might be recommended for acceptance, his delegation could not accept certain of its provisions. For example, the draft decision, like the German proposals, envisaged a settlement for three years, but his delegation could not accept the conditions in paragraph 4 of the draft by which the decision might be revoked at the fifteenth session. His delegation also held the view that any settlement should apply not only to products listed in Annexes D and E of the draft decision, but also to the products listed in Annex B.

Mr. Klein said that, despite his reservations, he hoped that it would be possible to arrive at an arrangement within the framework of the ideas underlying the draft, and that he believed that the CONTRACTING PARTIES would recognize that it was the intention of the Federal Government to achieve very considerable progress towards liberalization and the harmonization of its import policies with the rules of the General Agreement.

Mr. JØRGENSEN (Denmark) said that his delegation could support the proposals that a working party should be established and that the draft decision drawn up by the United States delegation should form the basis for its work. He wished, however, to draw to the attention of the CONTRACTING PARTIES to certain points in the draft decision which his delegation could not accept. The references in paragraph 2 of the United States draft to the administration of restrictions on commodities covered by the German Marketing Laws corresponded to the provisions of Article XIII of the General Agreement, but their inclusion in the draft decision appeared to put a special emphasis upon them and to impose, unjustifiably, specific obligations on Germany over and above those arising from the provisions of Article XIII. Another important point arose in this connexion since countries which had bilateral agreements with Germany should not be deprived of the benefits of those agreements provided that the provisions of Article XIII were not infringed. The present situation in Europe with increasing competition from non-GATT countries and with uncertainty as to future prospects for economic co-operation between European countries seemed to call for a line of action which did not require Germany to go beyond the provisions of Article XIII.

During the consultations the Federal Republic had been asked to liberalize a number of products included in List VII circulated by the German delegation. As many of these products, however, were included in support programmes in other countries, this meant that the Federal Republic was being asked to open its markets to subsidized exports from other countries. The Danish delegation therefore suggested that the secretariat should furnish the working party with information about such products so that account could be taken of this in its deliberations.

Mr. HAGEN (Sweden) expressed his satisfaction that at last an acceptable settlement of this problem appeared to be in sight. The United States draft (W.14/24) was, in the main, acceptable to the Swedish delegation; they were particularly pleased to see the likelihood of a temporary solution to the difficult problem of List VIII. The question of textiles and of certain other products was a delicate one for a number of European countries, not least because of the distortion of trade brought about by the application of Article XXXV by some countries. In this connexion he hoped that discussions within the OEEC would result in Japan having more access to European markets as a whole.

It was important to find suitable wording for the paragraph on non-discrimination; in the view of his delegation, the wording contained in Article 2(b) of the draft decision was sufficient. The proposal for consultations, as it was set out in the draft, appeared to raise implications the scope of which could not clearly be estimated. Was it the intention that contracting parties should also be concerned with German imports from countries which were not contracting parties? It was important for any country to know what obligations it was accepting and for others to know what the effects on themselves were likely to be. He would therefore ask the United States delegate what the scope of the consultations was intended to be. Contracting parties would wish to be clear on this point. In his view, it was inappropriate to raise problems connected with East-West trade and it was surely not the intention of the CONTRACTING PARTIES that the study of the problem of German import restrictions should be given such wide implications. He therefore considered that the working party should examine this point carefully and make the position clear.

Mr. CASTLE (New Zealand) said that his delegation had made a preliminary study of the United States draft against the background of the consultations which had taken place with the Federal Republic of Germany and in the light of the interest of New Zealand and of other contracting parties in reaching a settlement of this problem while maintaining the integrity of the General Agreement. The draft decision incorporated some of the points discussed in the consultations, but certain other points of interest to countries whose trade interests were involved were not included. In particular, the draft made no provision for increasing access to the Federal Republic's market covering a wide range of agricultural commodities of substantial importance to New Zealand and to other contracting parties. Further, certain points which were included in the draft were not satisfactory from New Zealand's point of view. Mr. Castle said that his delegation would raise these points in the working party.

Mr. PHILIP (France) said that he wished, in the capacity of a contracting party to the GATT, to make certain observations which, while being relevant to the particular problem under discussion, also had a more general significance. First, he doubted the desirability of conducting consultations of this kind under the procedures of Article XXII. The consultations with the Federal Republic of Germany had taken place within a closed group to which observers did not have access, despite the fact that questions of a general character and questions of principle arose and were discussed. He was glad to see that a working party was to be established; this would be a more normal and appropriate forum in which to conduct the further discussions on this problem. As for the draft decision itself, paragraph 2 of the preamble stated that the majority of the contracting parties were unable to accept the contention of the Federal Republic that paragraph 1(a)(ii) of the Torquay Protocol entitled it to maintain restrictions on imports of products specified in the Agricultural Marketing Laws. He wished to stress that the competence of a government to interpret its own laws should not be put in question and contracting parties should be in agreement on this point. A further point arose in connexion with paragraph 3 on page 2 of the draft decision. When examining the problem of import restrictions, it was necessary to consider the provisions of the General Agreement as a whole, and not the provisions of one article, such as Article XIII, in isolation.

In conclusion, Mr. Philip said that his delegation would be pleased to participate in the work of the working party.

Mr. AHMAD (Pakistan) said that his delegation had a two-fold interest in this problem. First they were interested in the interpretation and effectiveness of the provisions of the General Agreement. Pakistan held that there was no legal basis for the continued maintenance of import restrictions by the Federal Republic and, as this was the first case of its kind, serious consideration must be given to finding a solution which would strengthen the rules of the General Agreement. Secondly, his delegation was interested in certain items still on the restricted list. Most contracting parties now realized the difficulties in which the Federal Republic was placed with regard to those items falling within the scope of the Marketing Laws, but the restrictions were extended beyond this field to manufactured goods in a number of which Pakistan had a trade interest, for example cotton and jute textiles. In jute manufactures Pakistan's interest was two-fold, that of an exporter of the goods and as a supplier of raw materials. In this connexion he had listened with interest to the reference, during the discussion on Expansion of International Trade, to the views which it was stated the Federal Minister of Economics had expressed on the import of manufactured goods from the less-developed countries (SR.14/6) and he hoped this would be borne in mind by the Federal Government in determining their future attitude.

Pakistan had participated in the consultations with Germany under Article XXII and felt disappointment and concern over the progress made. He felt that the United States draft discussion did not go quite as far in some respects as Pakistan would wish, but he supported the proposal that the draft should be used by the working party as a basis for discussion. His delegation realized that the Federal Government might need time to remove their import restrictions completely but no specific indication had been given on this

point, particularly with regard to items included in List VIII circulated by the German delegation. Mr. Ahmad suggested therefore that, in further examination of the question, attention should be given to the possibilities of fixing a time-limit for the complete elimination of the restrictions.

Mr. TREU (Austria) said that his delegation felt that the draft decision would lead to a solution acceptable to all contracting parties and that it would, while taking into account the problems of the Federal Republic of Germany, preserve the integrity of the General Agreement. If the problem were remitted to a working party the Austrian delegation would wish to make certain observations; in brief, their views and reservations would be similar to those already expressed by the representative of Denmark.

Mr. SKOURTIS (Greece) said that, in the view of his delegation, the United States draft could lead to an acceptable solution. He therefore supported the view that a working party should examine the problem, using the United States draft as a basis for its work.

Sir John CRAWFORD (Australia), in supporting the proposal for the establishment of a working party, stressed that the issues involved were wider than the question of relations between individual contracting parties and the Federal Republic of Germany. Failure to make progress on this problem would cast serious doubts on the possibility of achieving multilateral trade in agricultural products in any worthwhile sense. If the Federal Republic continued to apply restrictions indefinitely, the most-favoured-nation concept would be completely nullified. While welcoming the preliminary steps taken by the Federal Republic to liberalize certain products, the Australian delegation considered that there was as yet insufficient movement towards providing reasonable access for items of concern to agricultural exporting countries. Apart from the nullifying effect that this had on the concept of reciprocal most-favoured-nation treatment, the present situation raised doubts as to whether there was scope for tariff negotiations with the Federal Republic in 1960. The question of discrimination still had to be satisfactorily settled and it was important for the working party to reach a clear understanding on what Article XIII would mean. In addition, it should take account of the fact that the proposals submitted, as was often the case, were too heavily weighted against the less-developed countries and countries exporting agricultural products.

In the light of the reservations made by the representative of the Federal Republic in his statement, it would seem impossible for recognition to be given to the interests of the less-developed countries and of countries exporting agricultural products. The contracting parties were, in fact, being asked to accept a package which contained only vague assurances; it was necessary to have assurances that interested suppliers among contracting parties would receive a fair and reasonable share of the market. Past experience of the application of Article XIII to the Federal Republic showed that something more than usual was required before some contracting parties would be able to agree to a waiver. It would not be unreasonable to seek an indication that non-discrimination was a practical possibility for the Federal Republic.

The CHAIRMAN, in summarizing the discussion, said there was agreement that the effort to find a solution of this problem should be continued in a working party. He therefore proposed that a working party should be set up with the following terms of reference and composition:

Terms of reference:

In the light of the various discussions by the CONTRACTING PARTIES of the problem presented by the maintenance by the Federal Republic of Germany of import restrictions notwithstanding that the Federal Republic is no longer justified in having resort to the provisions of Article XII, to consider the suggestions put forward by the Federal Republic in this connexion, together with any other proposals which have been or may be put forward at the present session, and to make recommendations to the CONTRACTING PARTIES.

Composition:

Chairman: Mr. A. Weitnauer (Switzerland)

Australia	Czechoslovakia	Greece	New Zealand
Austria	Denmark	India	Norway
Brazil	France	Japan	Pakistan
Canada	Germany (Federal Republic of)	Netherlands (Kingdom of)	Sweden
Chile			United Kingdom
			United States

3. Rhodesia and Nyasaland - South Africa Trade Agreement (L/973)

The CHAIRMAN recalled that when this item was considered on 13 May the representative of South Africa had explained the question which his Government and the Government of the Federation of Rhodesia and Nyasaland wished the CONTRACTING PARTIES to consider. The Chairman said he had suggested that delegations should study this question so that it could be discussed at a later meeting of the CONTRACTING PARTIES.

Mr. HAGEN (Sweden) said his delegation felt that there was doubt regarding the legal interpretation given to the Decision of 3 December 1955 by the Governments of South Africa and the Federation of Rhodesia and Nyasaland. It might, however, be difficult at the present session for the CONTRACTING PARTIES to give full consideration to the situation which arose out of the special commercial relationships existing between South Africa and the Federation. He understood that it was necessary for the two Governments to decide, before the end of June, whether they should re-negotiate their Trade Agreement. It would seem to be desirable, therefore, for the CONTRACTING PARTIES, without making any formal ruling, to record that there were doubts as to the validity of the interpretation of the legal position which had been the basis on which South Africa and the Federation had so far been working. The CONTRACTING PARTIES could, if so requested by the two Governments, examine at the fifteenth session the whole question of the special commercial relationships which existed between South Africa and the Federation; this examination would have the object of clearly defining the position of the CONTRACTING PARTIES so that the two Governments, in the course of any re-negotiations between them, could take

into account the views of the CONTRACTING PARTIES. In due course the two Governments would, no doubt, present the results of any such re-negotiations to the CONTRACTING PARTIES so that there would be a definitive and agreed settlement of this question within the framework of the General Agreement. Meanwhile, a practical problem would arise if the Government of South Africa and the Government of the Federation wished to increase their unbound most-favoured-nation rates, which would involve increases in margins of preference. Mr. Hagen said that, in view of the doubts regarding the legal interpretation, it would appear to be appropriate, in such cases, for the Governments of South Africa and the Federation to afford opportunity for consultation to other contracting parties substantially interested regarding the possible diversionary effects of increases in most-favoured-nation rates.

Mr. BEALE (United States) said that his Government had long recognized the special customs and trade relationships which had traditionally existed between South Africa and the two Rhodesias. These special relationships had been taken into account by the CONTRACTING PARTIES when they adopted the Decision of 3 December 1955. The Decision permitted adjustments of preferences during an interim period, provided the resultant margins of preference did not exceed the highest margin applied on the relevant base date. Some of the limitations provided for in the Decision would, however, appear to be nullified if the interpretation placed on the Decision by South Africa and the Federation were accepted. An interpretation which permitted the two Governments to increase most-favoured-nation rates, and consequently margins of preference, without regard to the express limitations contained in the Decision, would seem to go beyond the intent and purpose of the Decision. The United States Government was opposed in principle to any increases in preferences and would be particularly concerned about any request for blanket authority without qualification permitting such increases. As his delegation understood the situation the request concerned, not only a few actions taken since 1955, but the right to take action in future. The two Governments were required to give notice of the intention to re-negotiate their Trade Agreement before 30 June 1959. His delegation would suggest, therefore, that as soon as the two Governments had had an opportunity to consider their future trading relationships in the light of the present discussion by the CONTRACTING PARTIES, the issues should be examined by the CONTRACTING PARTIES whose views could then be taken into account by the two Governments should they consider it desirable to re-negotiate their Agreement at the end of its initial period on 30 June 1960. Mr. Beale concluded by saying that he hoped this proposal would be acceptable to the two Governments and to the CONTRACTING PARTIES.

Mr. BOTHA (Union of South Africa) said he had noted the views of the representatives of Sweden and the United States concerning the doubts that existed regarding the legal interpretation which the Governments of South Africa and the Federation of Rhodesia and Nyasaland had placed on the terms of the Decision of 3 December 1955. While the South African delegation were naturally disappointed to learn that the validity of this interpretation might be in doubt, they noted that it was difficult at this stage for the CONTRACTING PARTIES to enter into a full consideration of the position which they should take on this question. Mr. Botha said that, in the circumstances, he could do no more than give an assurance that the views expressed by the CONTRACTING PARTIES would be reported to his Government.

Mr. MACFARLANE (Federation of Rhodesia and Nyasaland), in supporting the observations made by the representative of South Africa, said that his delegation were concerned that the legal interpretation placed on the terms of the Decision of 3 December 1955 by the Governments of South Africa and of the Federation was in doubt. The statements made on this question by other delegations had been noted and would be reported to the Federal Government.

The CHAIRMAN said it would appear that the way to a solution of this problem might be found in the proposals made by the representative of Swoden which he would sum up as follows and which, he would suggest, might be considered as representing the conclusions of the CONTRACTING PARTIES on this question:

1. The CONTRACTING PARTIES, without making any formal ruling, record that there are serious doubts as to the validity of the interpretation of the legal position which has been the basis upon which South Africa and the Federation have been working.

2. Accordingly, the two Governments may wish to consider whether the existing agreement should not be re-negotiated if it is to be continued after the expiry of the five-year period of firm validity on 30 June 1960.

3. Meanwhile, the CONTRACTING PARTIES would, if so required by the two Governments, at their fifteenth session examine the whole question of the special commercial relationships between South Africa and the Federation with a view to clearly defining the position of the CONTRACTING PARTIES in this regard so that the two Governments, in the course of any re-negotiations between them which they may decide upon, could take into account the views of the CONTRACTING PARTIES in the course of their negotiations.

4. South Africa and the Federation would present the results of any such re-negotiations to the CONTRACTING PARTIES so that there would be a definitive and agreed settlement of this question within the framework of the General Agreement.

5. Pending such definitive and agreed settlement, South Africa and the Federation, in making increases in their most-favoured-nation rates, will take full account of the position of other contracting parties and afford opportunities for consultation regarding the possible diversionary effects of increases in most-favoured-nation rates.[1]

4. Derestriction of Documents (W.14/3)

The CHAIRMAN drew the attention of delegates to the proposals by the Executive Secretary in document W.14/3. The procedure for the derestriction of GATT documents, established at the sixth session, had become complicated by the need to publish annually and without delay supplements to the

[1] The above conclusions, which were circulated in document W.14/29, were approved by the CONTRACTING PARTIES at their meeting on 29 May.

Basic Instruments and Selected Documents and, in addition, by the fact that it had been decided to hold two sessions a year. The Executive Secretary's proposals envisaged a simplified procedure which would only involve two de-restriction operations a year, sixty days after the close of each session.

The proposals were agreed.

5. Request for Accession by Poland

The EXECUTIVE SECRETARY recalled that on 18 May a working party had been established to consider the Polish request for accession (SR.14/6). During discussion, however, there had been a difference of opinion among the contracting parties as to whether the working party should meet during the session or during the intersessional period. He would present to the CONTRACTING PARTIES for consideration a programme of meetings to be held during the intersessional period before the fifteenth session and proposed, unless any contracting party wished to press for a meeting at this session, to provide for a meeting of the working party in that programme.

The CHAIRMAN said that this question could be raised again at the meeting of the CONTRACTING PARTIES on the following day, if any contracting party so desired.

The meeting adjourned at 11.35 a.m.