

BOON ECONOMIC SUMMIT: THIRD PLENARY SESSION ON 17 JULY 1978
(opened 1040, closed 1300)

c.c. Master Set

Opening the third session, Chancellor Schmidt noted that Heads of Government had two items on the agenda still to consider - trade and relations with developing countries. They would also need to agree on the language for the declaration on which officials had worked overnight. He suggested they should deal first with the statement on air hijacking prepared overnight by Foreign Ministers.

Terrorism

Secretary of State Vance said he believed the text before them accurately reflected the discussion between Heads of State the previous afternoon. He presented it as an agreed proposal by all Foreign Ministers of the Summit countries. Chancellor Schmidt invited comments on the text.

Premier Trudeau suggested in the fifth line after "hijacked aircraft" substituting "and" for "or". This clarified the commitment to take action against offending Governments which refused extradition or prosecution of hijackers and refused to return the hijacked aircraft. He also preferred a reference to "permit extradition" rather than "extradite" in the interests of accuracy of language. He went on to propose a more major change to extend action by Summit countries both to incoming flights from the offending country by whatever airline as well as from any country by the airlines of the offending country. Otherwise, Summit countries would be required to take discriminatory action against their own airlines.

Secretary of State Vance was worried that Summit action would offend against bilateral agreements. The Prime Minister shared these doubts; Heads of Government might express their political determination to co-operate against hijacking whilst reserving to the lawyers the detailed consideration of how such political determination should be put into effect. President Carter feared this would considerably weaken the effect of the declaration. Premier Trudeau agreed; successive attempts to agree upon a joint declaration in previous years had always failed. It was essential for Heads of Government to commit themselves to an expression of political will. The Prime Minister did not dissent from this.

/Chancellor Schmidt

Chancellor Schmidt, for the Chair, said the question was whether the text was intended to oblige Governments to agree in accordance with it forthwith in the event of a hijacking situation arising, or was it the intention that Government's should operate the declaration only after examination of a text prepared in the light of legal advice. Speaking for the Federal Republic, he interpreted the German text as both indicating a declaration of immediate intent to act in accordance with the statement and as expressing a wish to put their intentions into proper legal form. He asked that Heads of Government should consider first whether they wished the declaration to take immediate effect.

President Carter said the US interpretation was that the President of the United States would be required to take any action commensurate with his legal powers in accordance with the statement. He was prepared to operate on that basis and to seek authority from the Congress to increase his powers as necessary. President Giscard also subscribed to that interpretation; and supported it. The Prime Minister said that was also his view; he was prepared to seek such additional powers as were needed from Parliament. Premier Trudeau was also in agreement. Prime Minister Andreotti agreed too. He suggested also that the declaration should include words reflecting Heads of Government agreement to take concerted action immediately to halt flights to offending countries. The notion of concerted action would strengthen the declaration. The precise language was less important than the intention that all airlines of their respective countries should be pledged to act together. Prime Minister Fukuda also agreed with the general interpretation on this point as did Chancellor Schmidt, speaking for Germany.

Summing up on this point, Chancellor Schmidt said they had established as a common decision that the joint statement should take immediate effect, with Heads of Government being prepared to seek additional powers as necessary from their legislatures.

Chancellor Schmidt, reverting to Premier Trudeau's earlier drafting suggestion asked for comments on the choice in the fifth line between "and" and "or". Should action be conditional upon

/refusal

refusal both to extradite or prosecute and refusal to return a hijacked aircraft. Herr Genscher insisted that "or" was preferable to "and"; action should depend on failure by the offending country to meet either of the two conditions not both of them if the statement was to have maximum deterrent effect. President Carter suggested resolving the issue by including "and/or". This was agreed by all.

Chancellor Schmidt then invited comments on Premier Trudeau's second suggested amendment. Was it agreed that their intention was to prevent flights to their respective countries from an offending country and all flights by the airlines of the offending country.

President Carter expressed further doubts about the dangers of violating international law or international agreements. He thought the language needed to accommodate the use of influence by the signatories on e.g. countries through which flights from an offending country might be routed. The Canadian Minister of Transport recalled that most bilateral agreements contained a "force majeure" clause. What was needed was the strongest possible political declaration to take action against those countries which gave aid or succour to hijackers.

Chancellor Schmidt, summing up on this point, said they were agreed on the most appropriate language. He suggested that the concluding sentence of the first paragraph should read as follows:

"To this end, in any cases where other countries refuse extradition or prosecution of those who have hijacked aircraft and/or do not return such aircraft, the Heads of State and Government are jointly resolved that their Governments shall take immediate action to halt all flights to those countries."

The following paragraph might then read:

"At the same time, their Governments will initiate action to halt incoming flights from the countries concerned, or from any country by the airlines of the countries concerned."

/There followed

There followed a discussion of Signor Andreotti's suggestion for a reference to Heads of Government acting "in concert". It was agreed to retain this, with the qualification that this would be a normal condition, no Government being in a position to veto action by the others. President Carter thought Foreign Ministers should consider the use of diplomatic channels to encourage similar action by all other countries in a common resolve. He thought Heads of Government could take pride in this statement which in his view alone validated the Summit meeting.

Chancellor Schmidt suggested that the declaration should be made public that afternoon, and that information should be passed through all available diplomatic channels as quickly as possible. These two points were both agreed. It was also agreed that the heading to this section of the declaration should refer to "air hijacking".

Premier Trudeau asked for confirmation that their common resolve was not intended to stop humanitarian landings in their respective countries, or invariably require action against third countries which permitted such landings.

Chancellor Schmidt said there was nothing in the statement to prevent hijacked aircraft being allowed to land in any country; but a third country which offered such landing rights would be required, if requested, to detain the aircraft and the hijackers and take appropriate action against the latter. Failure to do so would invite actions foreshadowed in their statement. It was not permission to land itself which was offensive action but co-operation in refuelling and allowing a hijacked aircraft to take off again, so removing the problem to another country and Government. Their joint statement, in this respect, would serve as a very strong deterrent against terrorism and co-operation with terrorists by other Governments. President Giscard agreed strongly with this interpretation. The declaration was intended for a small group of countries (he named some) of whom they were all aware, but whose names need not be mentioned outside the Conference. Their declaration would inform these Governments that aid and succour to future hijackers would meet with strong international action. In his view, they were not concerned here with deterring humanitarian action by third countries in circumstances in which aircraft might

otherwise crash. It was better to keep their statement confined to an expression of political will than to seek to foreshadow in the text a range of different situations. The detail could be settled in future discussions by Foreign Ministers. Dr. Owen suggested that Foreign Ministers should be asked to agree a code of conduct for concerted action providing a degree of flexibility to meet different situations. A suggestion from Premier Trudeau that the text should refer specifically to countries which gave asylum to hijackers did not find favour and was withdrawn.

The Prime Minister, endorsing President Carter's earlier remarks about the need to avoid any country having a veto on concerted action, suggested that the statement should say that Governments will "act immediately and in concert" rather than "act in concert immediately". President Carter strongly supported this thought; they should not seek unanimity before action; he would be prepared to act unilaterally in accordance with their statement. Premier Trudeau suggested the text should then say "act immediately", without reference to concerted action. They had agreed that concerted action should not be capable of veto. It need not therefore be mentioned. Both President Carter and President Giscard asked Signor Andreotti, whose suggestion the reference to concerted action had been, to withdraw it. Signor Andreotti thought language was less important than the principle. He was more concerned to see Heads of Government commit themselves to abide by the action foreshadowed in the joint statement and to provide themselves with the necessary powers to do so. He did not mind whether the reference to concerted action remained or not. So long as there was a total commitment by the seven Governments concerned.

Summing up, Chancellor Schmidt remitted to the Secretariat the task of preparing^a fresh draft reflecting the agreements reached. The emphasis should be upon their commitment to action. He would tell the press they had made a joint commitment and they would normally act in concert. The text might say that they were "jointly resolved ... to take immediate action".

/Trade

Trade

Chancellor Schmidt, opening this part of the discussion, suggested that they concentrate on completing paragraph 15 of the draft declaration first. This needed to refer to the progress of the Multilateral Trade Negotiations (MTNs) now under way, which had come to intermediate conclusions in Geneva four days earlier. Chancellor Schmidt invited the President of the EEC Commission to report on those discussions.

Mr. Jenkins recalled that at the last Summit, Heads of Government had agreed that the Tokyo round should be pursued with vigour. That had been done and a Framework of Understanding had been drawn up by negotiators in Geneva on 13 July. This needed to be seen in perspective. It was not an attempt to conclude the negotiations. The language was not as clear as would be needed in the final document. Important progress had been made on some points; yet other matters had not yet been decided. The aim, after a year of negotiation, had been to achieve enough agreement among the major countries to offer a prospect of satisfactory conclusions by the end of the year. In this respect the Framework of Understanding, in his view, succeeded. He described it as "a major and positive step forward". Mr. Jenkins then briefly reviewed the matters covered in the Framework of Understanding. He suggested this provided reasonable expectation of achieving four objectives by the year end:

- (i) A major step forward in a policy of trade liberalisation for the 1980s;
- (ii) Bringing the GATT rules into line with the needs of the next decade;
- (iii) Greater firmness and discipline in the Multilateral Trade system; and
- (iv) Additional benefits for developing countries.

Ambassador Strauss, endorsing Mr. Jenkins remarks, added a few additional remarks of his own. He emphasised that the Framework of Understanding intentionally set out what has been done and also what has not been done. It had not been drafted to paper over the cracks nor to conceal the major tasks that remained. But it was noteworthy

/that some

that some 19 or 20 major developed countries had seen fit to approve and endorse it as a statement of progress and a schedule for concluding the work that remained. Ambassador Strauss then referred to the draft text for paragraph 15 which had been agreed by representatives of all the Governments present, subject to certain French reservations.

M. Deniau then spoke to the first of the French reservations. The French Government could not "welcome and endorse" (in the 6th line) the Framework of Understanding which was no more than an interim report, vaguely drafted in some important areas and recording little progress in others. The French Government would prefer words like:

"We have been informed of the present state of progress on the MTNs. We have expressed the wish that they be concluded before the end of the year."

Ambassador Strauss strongly opposed this weakening of the text. A reference only to "being informed" would connote no significant progress since the Downing Street Summit. Whilst further work remained to be done, this would greatly under-value the progress already made. Such mild words would do a disservice to the Nordic countries, and to Australia and New Zealand who had already welcomed and given support to the Understanding reached in Geneva. President Carter asked why the French Government could not support the progress that had been made.

President Giscard said the precise language was secondary to an understanding of the substance of the French reservation. All parties to the MTNs had their particular problems but France had an additional technical difficulty in that negotiations were carried on by the EEC and France did not negotiate directly. The Framework of Understanding had been accepted by the EEC representative, from which acceptance the French Government had been obliged to dissent. His objection rested on the difficulty of giving formal approval to a document on which he had reservations of detail.

Count Lambsdorff, speaking for Germany, said that his country recognised the validity of the French difficulties; but he urged the French President to set aside legal doubts and join in the political endorsement of the real progress which had been made in this field. He thought, like Ambassador Strauss that it ought to be possible to find a compromise formula which the French President could accept. It was important that they should give a new impetus to the Geneva discussions even if this meant subordinating certain technical reservations which some countries might have.

President Giscard recalled that support from the United States Government since 1963 had been stronger for tariff reductions than for other elements in liberalising trade. The European position, in contrast, placed greater emphasis on other obstacles to trade. It seemed to him that the Geneva text more clearly recorded commitments on the removal of tariffs than on reducing these other obstacles. Whilst the French Government certainly supported the progress already made they had no wish to cover up the ambiguities in the document. The French Government also wished to see a Japanese contribution matching that of other countries. On this too the document was ambiguous.

At this point Premier Trudeau suggested reversing the order of the third sentence in order to accommodate French difficulties. He suggested that the text should read:

"We appreciate and clearly (or strongly) support the progress set forth in the Framework of Understanding at the Tokyo round of Multilateral Trade Negotiations made public in Geneva, July 13, 1978, even though in this Framework some difficult and important issues remain unresolved."

President Giscard, describing this as a very useful contribution, though it a possible solution, with the deletion only of the word "clearly". (He also dismissed "strongly"). Subject to this, he accepted this revised working on behalf of the French Government.

M. Deniau spoke next to the second French reservation on the final sentence of the second paragraph. For France, this was a matter of substance. Heads of Government understood that the problem related to the position of the United States. Given that the aim of the MTNs was to achieve a uniform application of the GATT rules, the reference only to seeking agreement to move in that direction represented an inadequate commitment. France wanted a clear statement that all countries would apply the GATT rules in the same way. He suggested the following alternative text:

"There must be agreement on uniform application of the GATT rules."

Both Ambassador Strauss and President Carter reacted strongly against the word "must". Ambassador Strauss said it would endanger the US Administration's ability to deliver. The US Government intended to move towards uniform application of the rules, and had so stated. But if the commitment were over-stated this would be counter productive in dealings with the Congress. President Carter described such language as inappropriate to a joint communique by sovereign states. He did not wish to play games or avoid responsibility but Congress was an equal partner with the President in this matter and would resent such strong exhortation.

President Giscard said he also wished to speak frankly. There was little support for major tariff reductions in French Parliament. The present wording merely repeated commitments which the US Government has undertaken in the Kennedy round.

He did not want to see a repeat of the objections which Congress had placed on progress in the past. The French position required parallel movement by the US in this field.

Count Lambsdorff, expressing sympathy with the French difficulties, said that Governments must recognise circumstances existing in other countries. It would not be possible to have overcome all these by 15 December, and realism required they should

not enter into commitments which they could not deliver. But Germany also felt that the existing wording required strengthening. He supported Ambassador Strauss' compromise suggestion that the draft should refer to "seek agreement" rather than the form of words agreed overnight.

President Carter repeated that he could not accept the word "must". This would be certain to increase the obduracy of opponents in Congress. He would be prepared to talk in language which indicated "agreement to move", but that was as far as he could go.

Chancellor Schmidt, speaking for the Chair, urged Heads of Government to distinguish between the political realities revealed by the French and United States Presidents' interventions and the language needed to convey appropriate political will.

None of them could doubt, on the one hand, President Carter's commitment to an attempt to move the US Congress towards uniform application of the GATT rules and, on the other hand, President Giscard's concern that United States failure would increase the unwillingness of France to apply reductions in tariffs. The domestic political constraints on the two Presidents were fully understood. He suggested that Heads of Government should be guided by the need to avoid using language which reduced the chance of either Government achieving its desired result in relations with its legislature. With this in mind he proposed that the final sentence of paragraph 2 should read:

"We seek agreement to move as promptly as possible towards uniform application of the GATT rules."

Mr. Dell said he agreed with the substance of Chancellor Schmidt's argument, but suggested that implementation of the Agreement by the European countries required an equal degree of implementation by the United States. He endorsed Chancellor Schmidt's formulation, but proposed adding at the end:

".... which is an essential condition for the implementation of the round."

Ambassador Strauss opposed Mr. Dell's suggested addition, arguing that it would weaken the conditionality of the whole document to interpose specific conditionality at one point. Governments should note, as practical evidence of the US Administration's and President's good faith, the vigour with which the Zenith case had been pursued through the Courts.

Premier Trudeau intervened at this point to suggest that French difficulties might be accommodated by inverting the order of the sentence as follows:

"Uniform application of GATT rules is essential and we agree to move as soon as possible in that direction."

Count Lambsdorff agreed that Germany could certainly accept that formulation, which successfully removed any problem of conditionality. For that reason, and because their conclusions would need to be agreed with other EEC partners and conveyed to the developing countries, he hoped it would be acceptable to the United States.

President Giscard thought Mr. Dell's intervention clearly demonstrated the substance of the matter, though the text might perhaps be put less boldly for political reasons. France could accept Premier Trudeau's formulation.

President Carter insisted that he did not wish to be an obstacle to progress. But "essential" still carried unacceptable connotations. He would prefer "important" or "desirable", or even "vital". He would accept the suggested formulation, with the substitution of "vital" for "essential". President Giscard readily accepted this as a reinforcement of Premier Trudeau's suggestion. President Carter, whilst not withdrawing his agreement, suggested that the description "vital" connoted less the nature of pre-condition than did "essential". He would not wish US agreement to be taken as signifying that movement by the Congress on this issue was a pre-requisite for all progress on future trade negotiations.

Chancellor Schmidt said that, for the Chair, he agreed that this language should not be used in any way to prejudice the political situation. Heads of Government would recognize the reality of President Carter's position vis a vis Congress as one element in a network of conditionality in which each Government had a part to play. President Giscard noted that ratification of measures on MTNs would require a series of legislative acts. France would wish to progress in step with the United States and he hoped the US Congress would not frustrate the US Government's intentions as they had during the Kennedy round.

The form of Premier Trudeau's text was agreed as acceptable

Chancellor Schmidt then asked President Giscard whether he wished to maintain French reservation on the 15th December deadline for final agreement on the MTNs. After light-hearted exchanges about the desirability of finishing before the Christmas holiday, President Giscard said that he could accept the text as it stood, so long as 15th December was not taken too literally. At this point the meeting adjourned.