

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTANNOTATED AGENDA RELATING TO THE DRAFT
GENERAL AGREEMENT ON TARIFFS AND TRADE

This Agenda is to be read in conjunction with the revised version of the Draft General Agreement recommended by the Tariff Negotiations Working Party (E/PC/T/189).

The Agenda has been prepared by the Secretariat on the basis of amendments and other proposals received up to noon Saturday 30 August relating to the General Agreement proper but not those relating to the Schedules alone. Where possible underlining has been provided to indicate additions to, and square brackets deletions from, the text of the Draft General Agreement.

The explanatory comments by the Tariff Negotiations Working Party relating to the inclusion of certain of the Articles are not reproduced in this annotated agenda but will be found on pages 4 - 9 of E/PC/T/135.

General Note: The U.K. Delegation suggests that "Contracting Government" and "Contracting Governments" should be substituted for "Contracting Party" and "Contracting Parties" throughout the text. (E/PC/T/W/273). In this connection it will be noted that the Czechoslovakian Delegation has expressed the view that "Governments" should be changed to "States" since, in its opinion, States rather than Governments are the contracting parties under International Law. (E/PC/T/W/274 and 285).

ARTICLE IGeneral most-favoured-nation Treatment

The French Delegation has suggested that the beginning of paragraph 3 should be amended to read (E/PC/T/W/287):

"3. The margin of preference on any product in respect of which a preference is permitted under paragraph 2 of this Article shall not exceed

(a) in respect of any product described in the Schedule to this Agreement, the margin laid down in the Schedule or the margin by which the schedule most-favoured nation rate exceeds the scheduled preferential rate or, in the case ... etc."

ARTICLE IISchedules of ConcessionsParagraph 2

The French Delegation has suggested that this paragraph might read (E/PC/T/W/287):

"2. No Contracting Party shall adopt measures likely to impair, directly or indirectly, the effect of the concessions provided for in the tariff Schedule annexed to this Agreement, whether by introducing or increasing duties and charges (other than customs duties and fees for services rendered) imposed on, or in connection with importation, unless such measures are prescribed by legislation currently in force, or by altering its method of determining dutiable value or of converting currencies for calculating this value."

Paragraph 3

The Norwegian Delegation suggests the deletion from the last sentence of the words "from the territories of contracting parties" and suggests the addition of the following sentence to the end of that paragraph (E/PC/T/W/272):

"Due regard shall be had to the fact that some monopolies are established and operated mainly for social, cultural, humanitarian or revenue purposes."

Paragraph 4

The Norwegian Delegation questions whether this paragraph should not contain a provision to the effect that the contracting parties should, as soon as possible, bring their legislation into line with the obligations undertaken (E/PC/T/W/272).

PART II

The views of various delegations on the deletion or retention of this Part are given in Document E/PC/T/W/301 which will shortly be supplemented with an analysis of the views expressed orally during the discussion of this question in recent meetings of the Tariff Agreement Committee.

ARTICLE III

National Treatment on Internal
Taxation and Regulation

No comment.

ARTICLE III A

Special Provision relating to
Cinematograph Films

The text approved by the Preparatory Committee on this subject has been included in the revised draft of the General Agreement for the reason that cross references to this provision appear in other Articles previously included.

ARTICLE IV

Freedom of Transit

No comment.

ARTICLE V

Anti-dumping and Countervailing Duties

No comment.

ARTICLE VI

Valuation for Customs Purposes

No comment.

ARTICLE VII

Formalities Connected with
Importation and Exportation

No comment.

ARTICLE VIII

Marks of Origin

No comment.

ARTICLE IX

Publication and Administration of Trade Regulations

No comment.

ARTICLE X

General Elimination of Quantitative Restrictions

No comment.

ARTICLE XI

Restrictions to Safeguard the Balance of Payments

No comment.

ARTICLE XII

Non-discriminatory Administration of
Quantitative Restrictions

No comment.

ARTICLE XIII

Exceptions to the Rule of Non-discrimination

No comment.

ARTICLE XIV

Exchange Arrangements

No comment.

ARTICLE XV

Subsidies

No comment.

ARTICLE XVI

Non-discriminatory Treatment on the part of
State-Trading Enterprises

No comment.

ARTICLE XVII

Adjustments in Connection with
Economic Development

No comment.

ARTICLE XVIII

Emergency Action on Imports of
Particular Products

No comment.

ARTICLE XIX

General Exceptions

No comment.

ARTICLE XX

Consultation

No comment.

ARTICLE XXI

Nullification or Impairment

No comment.

PART III

ARTICLE XXII

Territorial Application - Frontier Traffic - Customs Unions

The Australian Delegation suggests that this Article be transferred to Part II of the Agreement (E/PC/T/W/277).

Paragraphs 3, 4 and 6

The Czechoslovakian Delegation suggests that paragraphs 3, 4 and 6 be deleted (E/PC/T/W/285).

Paragraph 3 (b)

The Australian Delegation suggests that the opening words be revised to read (E/PC/T/W/277): "No contracting party shall initiate / put into operation or maintain ..."

ARTICLE XXIII

Joint Action by the Contracting Parties

Paragraph 1

The Czechoslovakian Delegation suggests that this paragraph be deleted (E/PC/T/W/285).

Paragraph 2

The Czechoslovakian Delegation suggests that this paragraph be deleted, or alternatively that provision should be made for the Committee to be convened by the Economic and Social Council at a date determined by the Council (E/PC/T/W/274 and 285).

Paragraph 3

The Czechoslovakian Delegation suggests that this paragraph be deleted (E/PC/T/W/285).

Paragraph 4

The Czechoslovakian Delegation suggests that this paragraph be deleted (E/PC/T/W/285).

Paragraph 5

The Czechoslovakian Delegation suggests that this paragraph be deleted (E/PC/T/W/285).

The United Kingdom Delegation suggests the insertion of the words (E/PC/T/W/273): "Except where otherwise provided for in this Agreement decisions of the Committee shall be taken by a simple majority of the votes cast".

Paragraph 6

The Czechoslovakian Delegation suggests the deletion of this paragraph (E/PC/T/W/285).

Paragraph 7

The Czechoslovakian Delegation considers that the term "is capable of exercising its functions" is rather vague and that a definite date ought to be inserted in the Agreement. (E/PC/T/W/274).

The Czechoslovakian Delegation has also suggested that this paragraph should be revised to read (E/PC/T/W/285): "As soon as the ITO has been established, the Contracting parties shall transfer to it all functions arising from the administration of the provisions of this Agreement."

The Norwegian Delegation proposes the deletion of this paragraph and suggests that any provision which might be necessary to accomplish the transfer to the ITO of the functions of the temporary Committee, should be placed logically in Article XXVIII (E/PC/T/W/272).

The United Kingdom Delegation suggests the deletion of the words: "... by amendment pursuant to Article XXVII may discontinue the meetings provided for in this Article and ..."

The United Kingdom Delegation suggests that after "may" and before "transfer" the words "by a two-thirds majority" should be inserted (E/PC/T/W/273).

The Australian Delegation suggests that paragraph 7 be amended to read (E/PC/T/W/277):

"As soon as the ITO has been established and is capable of exercising its functions ~~the contracting parties by amendment pursuant to Article XXVII may discontinu~~ the meetings provided for in this Article shall be discontinued and ~~may transfer to the Organization~~ the function of giving effect to those provisions of this Agreement which involve joint action by the contracting parties shall be transferred to the Organization."

Paragraph 8

The Czechoslovakian Delegation suggests the deletion of this paragraph (E/PC/T/W/274).

Paragraph 8(a)

The Australian Delegation suggests the addition of the following paragraph (E/PC/T/W/277):

"The Committee may take such action as it deems necessary for the performance of its functions and may enter into such arrangements with the Secretary-General of the United Nations as may be necessary for this purpose."

ARTICLE XXIV

Definitive Entry into Force

Paragraph 3(a)

The Czechoslovakian Delegation proposed the deletion of the words "and which is not self-governing in matters provided for by this Agreement" (E/PC/T/W/274 and 285).

Paragraph 3(b)

The United Kingdom Delegation suggests the deletion of "undertake the obligations" and the substitution of "apply the provisions". (E/PC/T/W/273).

The Czechoslovakian Delegation proposes the deletion of the second sentence (E/PC/T/W/274).

The Australian Delegation proposed the following revision of the second sentence (E/PC/T/W/277):

"The government of such separate customs territory shall with the consent of the Committee and upon such terms as the Committee may determine be entitled to "appoint a representative to the Committee."

Paragraph 4

The Czechoslovakian Delegation suggests the addition, after "Annex H" at the end of the sentence, of the words "... and if there are no objections raised by the Economic and Social Council of the United Nations". (E/PC/T/W/285).

ARTICLE XXV

Withholding or Withdrawal of Benefits

The Czechoslovakian Delegation proposes that this Article be amended as follows (E/PC/T/W/285):

"Any contracting party shall at any time be free to withhold or to withdraw, in whole or in part any concession /provided for/ granted under par.1 of Article II in respect of which such contracting party determines that it was initially negotiated with a /government/ State which has not become or has ceased to be a contracting party, provided that the contracting party taking such action shall give notice to all other contracting parties and, upon request, consult with such of the other contracting parties which /the Committee determines to/ have a substantial interest in the product concerned."

ARTICLE XXVI

Modification of Schedules

The United Kingdom Delegation suggests that "modification" in the title should be deleted and replaced by "Variation" (E/PC/T/W/273).

In line 1 the United Kingdom Delegation suggests that the words "on or after November 1 1950" be replaced by "After three years from the date of provisional application of this Agreement" (E/PC/T/W/273).

The Czechoslovakian Delegation considers that mention of a date should be avoided (E/PC/T/W/274).

The Czechoslovakian Delegation suggests the deletion of the words (E/PC/T/W/285): "... and subject to consultation with the other contracting parties which the Committee determines have a substantial interest in the trade in the product concerned ..."

In line 6 the United Kingdom Delegation proposes the deletion of "modify" and the substitution of "vary". (E/PC/T/W/273).

ARTICLE XXVII

Amendments

The Czechoslovakian Delegation suggests the deletion of this Article on the ground that the Agreement should cease to be effective as soon as the ITO is established (E/PC/T/W/274 and 285).

The Norwegian Delegation considers that amendments to the General Agreement ought to be made only by unanimous decision (on the assumption that Part II were to be deleted) and that no specific amendment procedure need be included in the Agreement. (E/PC/T/W/272).

The Lebanese and Syrian Delegations proposed that those provisions of the Charter which correspond to Part II of the General Agreement should be automatically incorporated in the latter (E/PC/T/W/291).

Paragraph 1

The United Kingdom Delegation proposes that this paragraph should be detached from the rest of the Article and made into a new Article with the title "suspension and Supersession" (E/PC/T/W/273).

The Indian Delegation suggests the deletion of "two-thirds" and the substitution of "the majority". (E/PC/T/W/278).

The Australian Delegation suggests provisionally that this paragraph be amended to read as follows (E/PC/T/W/277):

"1. (If; on or after the day of the signature of the Charter of the ITO, two-thirds of the contracting parties so agree) On the day of coming into force of the Charter Part II of this agreement (in whole or in part) shall for those contracting parties who have accepted the Charter in relation to other contracting parties who also have accepted the Charter be (suspended on a specified day and shall, on and after such day, be) superseded by the provisions of the Charter (for such time as the Charter remains in force provided that all the contracting parties to this Agreement shall on that date have become members of the International Trade Organization) provided that if by 31 December 1948 the Charter shall not have come into force or if on any date thereafter during the operation of this agreement the Charter shall cease to be in force, the contracting parties agree to consult as to the way the provisions of this agreement should be supplemented or amended,

Paragraph 2

The United Kingdom Delegation suggests that this paragraph should become a new Article entitled "Amendments" and that consequently after "provisions of this Article" the words "or of Article XXVII" should be inserted (E/PC/T/W/273).

Paragraph 3

The Indian Delegation suggests the deletion of the second sentence (E/PC/T/W/278).

ARTICLE XXVIII

Withdrawal

The Norwegian Delegation proposes that this Article be redrafted to give expression to the following points (E/PC/T/W/272):

"(a) The General Tariff Agreement has been concluded on the assumption of the establishment of an International Trade Organization. If this assumption should not materialize, it should be open to all the parties to the Agreement to withdraw on short notice after the conclusion of the Havana Conference without positive results.

"(b) If the International Trade Organization is established as anticipated, the states which are parties to the tariff agreement must adhere to the International Trade Organization within a reasonably short time, say six months after the Havana Conference, or else withdraw from the multi-lateral tariff agreement unless permitted to continue to be parties to that agreement by unanimous decision of the other parties thereto.

"(c) As soon as the International Trade Organization has been constituted and has begun its activities the Committee mentioned in Article XXIII should disappear and its functions be transferred to the Tariff Committee of the International Trade Organization as mentioned under Article XXIII above.

"(d) On or after 1 November 1950, any contracting party to the tariff agreement may withdraw in conformity with the rules of the present draft of Article XXVIII."

The Czechoslovakian Delegation considers that contracting parties should have the right to withdraw at any time, since otherwise such contracting parties might find themselves subject, simultaneously, to two different and equally effective International conventions. (E/PC/T/W/274).

In line 1, the United Kingdom Delegation proposes the deletion of "on or after 1 November 1950" and the substitution of "after three years from the provisional entry into force of this Agreement" (E/PC/T/W/273).

In line 3, the United Kingdom delegation suggests the deletion of "one" and substitution of "any".

ARTICLE XXIX

Status of prior International Obligations

The Czechoslovakian Delegation proposes that the present Article be deleted and replaced by the following text (E/PC/T/W/274 and 285):

"The contracting parties shall put in force the provisions of this Agreement by way of their existing commercial treaties. Where there is no commercial treaty existing among the respective countries, this Agreement shall provisionally take the place of such a treaty."

Paragraph 1

The Australian Delegation proposes the following re-draft (E/PC/T/W/277):

"Obligations entered into under this Agreement shall supersede any prior international obligations between contracting parties to the extent that they are inconsistent therewith."

Paragraph 2

The Chinese Delegation proposes that this paragraph be temporarily deleted (E/PC/T/W/275).

The Australian Delegation proposes that this paragraph be amended as follows (E/PC/T/W/277):

"The contracting parties shall after the Agreement shall have definitively entered into force take all necessary steps to terminate any prior international obligations with any non-contracting party to the extent that they are inconsistent with this Agreement."

ARTICLE XXX

Status of Contracting Parties

Paragraph 1

The United Kingdom Delegation proposes the following amendment (E/PC/T/W/273): "The expression "Contracting Governments" shall mean those Governments which are applying this Agreement either provisionally or pursuant to Article XXIV".

The Czechoslovakian Delegation suggests the replacement of "Governments" by "States" (E/PC/T/W/274 and 285).

Paragraph 2

The Czechoslovakian Delegation proposes the deletion of this paragraph (E/PC/T/W/274 and 285).

ARTICLE XXXI

Adherence

In the title the United Kingdom Delegation proposes the deletion of "Adherence" and the substitution of "Accession" (E/PC/T/W/273). In line 1 the United Kingdom Delegation suggests the deletion of "adhere" and substitution of "accede". (E/PC/T/W/273).

The Czechoslovakian Delegation suggests the following revised version of this article (E/PC/T/W/285):

"1. A state not party to this Agreement may adhere to it by depositing with the Secretary-General of the United Nations an instrument of adherence accompanied by a schedule of tariff concessions agreed upon by this State and the other signatories of this Agreement representing two-thirds of the foreign trade of the state concerned. Tariff reductions agreed upon in the previous commercial treaties existing among the signatories of this Agreement and the adhering state may be included in the schedule.

"2. Should the Charter not have entered into force on 1 November 1948, the Secretary-General of the United Nations shall convene a meeting of the contracting parties to reconsider the situation and to decide on further steps to be taken."

The Czechoslovakian Delegation has also suggested that the Article may read (E/PC/T/W/274):

"States Members of the United Nations not parties to this Agreement may adhere to it on terms to be agreed upon between them and the contracting parties. Other states can be admitted only with the prior approval of the Economic and Social Council."

ARTICLE XXXIA. Registration of the Agreement

The Chinese Delegation suggests the addition of a new Article as follows (E/PC/T/W/276):

"The United Nations is authorized to effect the registration of this agreement as soon as it comes into force".

ARTICLE XXXII

Provisional Application

The United Kingdom Delegation would delete this Article and proposes the new arrangement and provisions indicated below (E/PC/T/W/273):

1. There should be a single instrument laid out as follows:
 - A. General Agreement (Articles I to XXXI) followed by signatures:
 - B. Three paragraphs without title commencing "The Governments of", relating to provisional application of the General Agreement:
 - C. Protocol of signature.

It would be reasonable to interpret the signatures as relating to all three parts of the instrument.

2. Article XXXII would disappear, and also the references to it in Article XXII(I) and Article XXX.
3. The paragraphs dealing with provisional application would run as follows:
 1. The Governments of undertake each to give notice to the Secretary-General of the United Nations not later than of its intention to apply provisionally, as from in respect of its metropolitan territory and as soon as possible thereafter in respect of any other territory for which it has international responsibility and which is not self-governing in its external commercial relations and in matters provided for by the General Agreement.
 - (i) Parts I and III of the General Agreement;
 - (ii) Part II of that Agreement to the fullest extent, not inconsistent with existing legislation.

2. Any signatory Government may at any time give notice to the Secretary-General of the intention of the Government of any territory for which the signatory Government has international responsibility and which is self-governing in the conduct of its external commercial relations and in the matters provided for in the General Agreement, to apply provisionally
 - (i) Parts I and III of the General Agreement;
 - (ii) Part II of that Agreement to the fullest extent not inconsistent with existing legislation.
3. Pending the entry into force of the General Agreement any signatory Government may give written notice to the Secretary-General of the United Nations, to take effect upon the expiry of 60 days from its receipt, that it or any Government, in respect of which notice has been given to the Secretary-General of the United Nations under paragraph 2 above, intends to cease to apply provisionally in whole or in part the parts of the General Agreement referred to above.

The Norwegian Delegation observes that (E/PC/T/W/272):

'If Part II of the General Agreement is left out, there would not seem to be a need for distinguishing between "definite" and "provisional" entry into force of the agreement. The whole Agreement would be conditional upon the subsequent entry into force of the Charter and the establishment of the International Trade Organization.

The Czechoslovakian Delegation suggests (E/PC/T/W/285)

"delete in paragraph 1, sub-paragraph 3"

(It would appear that the reference is intended to be to sub-paragraph 1(b)).

Paragraph 1

The Australian Delegation suggests the substitution of "December 15, 1947" for "November 1, 1947" in the last line of the preamble (E/PC/T/W/277).

The United States Delegation suggests the same change both at the end of the preamble and at the end of sub-paragraph "6", and would add after the words "December 15, 1947" at the end of the preamble the words "and provided that the signatures of all such Governments shall have become effective by December 1, 1947 ..." (E/PC/T/W/271).

Paragraph 2

The Australian Delegation considers that the spaces for the time and place of signature in the last line should remain blank for the present.

The United States Delegation suggests that after the present paragraph 2, following the list of countries, the following words should be added: (E/PC/T/W/271):

"This signature shall become effective when the Government of (named in paragraph 1) has given written notice to that effect to the Secretary-General of the United Nations, who will immediately notify all other signatories of this Agreement".

PROTOCOL OF SIGNATURE

The Norwegian Delegation expresses the view (E/PC/T/W/272) that in the General Agreement as envisaged by the Norwegian Delegation the Protocol might be deleted, whilst certain of its clauses might be included in the Preamble, if that should be deemed necessary. The words "to the fullest extent of their authority" seem to go too far and to imply a definite and binding commitment to the "principles" of the draft Charter in such a way as to hamper to a very great extent the free action of the Havana Conference.

Paragraph 3

The Czechoslovakian Delegation suggests that the words "through the Economic and Social Council of the United Nations" may require change in view of the fact that the Draft Charter itself will not have been submitted through that body. (E/PC/T/W/274 and 285).

Paragraph 4

The Czechoslovakian Delegation suggests the deletion of this paragraph and the corresponding modification of the preceding paragraph (E/PC/T/W/274 and 285).

Paragraph 5

The United Kingdom Delegation suggests that the following paragraph be added (E/PC/T/W/273):

"This protocol shall remain open for signature by or on behalf of any Government which may apply the General Agreement provisionally or upon whose behalf an instrument of acceptance has been deposited under Article XXIV, or which has acceded to the General Agreement under Article XXI."

PROPOSED ADDITIONAL PROTOCOL TO COVER RELATIONS WITH GERMANY, JAPAN AND KOREA.

The United States Delegation has proposed the following draft protocol for this purpose (E/PC/T/W/311):

"The governments signatory to the General Agreement on Tariffs and Trade, dated _____, 1947, recognize the desirability that Germany, Japan and Korea as soon as is practicable assume the full obligations of said Agreement and of the Charter for the International Trade Organization. Also recognizing, however,

that the external trade of these areas cannot be conducted in a normal manner under present circumstances of military occupation, the signatory governments agree that nothing contained in said Agreement shall apply in any way to Germany, Japan or Korea, or to any occupying authority therein, or to trade in either direction between the territory of any signatory government and any of these areas.

"The signatories further agree that the provisions of this protocol shall remain in force respectively with regard to Germany, Japan and Korea until occupation of such area is officially declared at an end or until such area is found by the occupying authorities and the parties to said Agreement to be capable of undertaking the obligations of said Agreement.

"The signatories further agree that any signatory or signatories may nevertheless make separate or joint agreements with the appropriate authorities of any such areas under which the latter would derive certain or all of the benefits granted to the other signatories under said Agreement.

"The terms "Germany, Japan or Korea" wherever used or referred to in this protocol shall mean "Germany, Japan or Korea or any part thereof."

ANNEXES TO THE GENERAL AGREEMENT:

ANNEX A

No comment.

ANNEX B

No comment.

ANNEX C

No comment.

ANNEX D

No comment.

ANNEX E

No comment.

ANNEX F

No comment.

ANNEX G

No comment.

ANNEX H

No comment.