

GENERAL AGREEMENT  
ON TARIFFS AND  
TRADE

ACCORD GENERAL SUR  
LES TARIFS DOUANIERS  
ET LE COMMERCE

URGENT ACTION

RESTRICTED

LIMITED C  
GATT/CP/36

30 September 1949

GENERAL AGREEMENT ON TARIFFS AND TRADE

FUTURE TARIFF NEGOTIATIONS

Report of Working Party 10 of the Third Session

1. The Working Party, appointed at the close of the Third Session at Annecy (GATT/CP3/SR44), held several meetings in Geneva during the latter part of August and convened again in London in the last week of September.
2. In accordance with its terms of reference, the Working Party studied the possibility of arranging for a third set of tariff negotiations and completed the drafting of a Memorandum on the conduct of such negotiations; the Memorandum recommended by the Working Party is annexed hereto. This Memorandum proposes that negotiations among the contracting parties, and between contracting parties and governments wishing to accede to the Agreement, should commence on 28th September, 1950, at a place to be determined by the CONTRACTING PARTIES at the Fourth Session to be held in Geneva in February next. Preliminary enquiries concerning participation in these negotiations have already been addressed to 28 governments which have not yet entered into negotiations for accession to the Agreement and to the Government of Colombia.
3. Contracting parties are requested to advise the Executive Secretary of the Interim Commission for the International Trade Organisation whether they are in favour of arrangements being made for the conduct of negotiations on the basis of the annexed Memorandum. Replies to this enquiry should be received not later than 30th October, 1949.
4. After discussion at the London meeting, the Working Party came to the conclusion that the Governments of the Federal Republic of Germany and the Republic of Korea were eligible to accede to the General Agreement and could receive the enquiry as to whether they would be interested in accession. The representative of Czechoslovakia expressed

the opposition of his Government to the enquiry being addressed to these two Governments and asked that the following statement be recorded in the Working Party's report to the Contracting Parties.

"WESTERN GERMANY The Czechoslovak delegation expressed its opinion that:

(a) In accordance with point 14 of the Potsdam Agreement, Germany - during the period of occupation - is to be treated as a single economic unit especially with regard to imports, exports and customs.

(b) Not even the Occupation Statute for Western Germany gives to the West German Government an autonomy in the conduct of its foreign relations which would give it the necessary capacity to become eligible for accession to the G.A.T.T.

"KOREA The Czechoslovak Government does not recognise the Government of Southern Korea because in its opinion it is a government which came into the world as a result of forced elections. Czechoslovakia recognises, as the only legitimate and competent government, the Democratic People's Republic of Korea, especially as over 77% of the electorate of South Korea participated in the elections to the Korean Supreme People's Assembly. The action of the Contracting Parties in inviting Southern Korea would only widen the gulf between southern and northern Korea and would act in this way against the future unity of Korea."

5. At the London meeting the Working Party also discussed the desirability of extending the enquiry to the Government of Japan. The majority were opposed. The United States representative expressed disappointment that the Working Party was not able to recommend at this time that Japan be invited to participate in the third round of negotiations; he noted with satisfaction, however, that a large majority of the delegates agreed in principle that Japan should eventually be brought into the community of trading nations, and he reaffirmed the belief of his Government that this is necessary for a peaceful and prosperous world.

A N N E X

MEMORANDUM ON TARIFF NEGOTIATIONS

To be held in Geneva <sup>(1)</sup> commencing 28 September, 1950

I. Purpose of the Negotiations

The Contracting Parties to the General Agreement on Tariffs and Trade will hold a third set of tariff negotiations commencing on 28 September 1950 at Geneva, Switzerland. These negotiations will include three categories:

(a) Negotiations directed towards the accession of countries not included among those which have or may become contracting parties as a result of the 1947 and 1949 negotiations. In most cases these countries are or will be enjoying the benefit of the tariff reductions resulting from those negotiations, but even so they may welcome the opportunity to obtain these benefits in their own right and to negotiate for further concessions on the products of most interest to them. Consequently, it is anticipated that an acceding government will be prepared to negotiate with any contracting party and with any other acceding government.

(b) Negotiations between contracting parties which participated in the Geneva and Annecy conferences without concluding bilateral negotiations and wish to enter into tariff negotiations during 1950.

(c) Negotiations between contracting parties which concluded tariff negotiations at Geneva or Annecy and desire to enter into negotiations for new or additional reciprocal tariff concessions. (2)

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(1) The place for the negotiations will be decided at the Fourth Session of the Contracting Parties in February 1950. Geneva is mentioned in this Memorandum as a possible place for the negotiations only because it is the seat of the I.C.I.T.O. Secretariat.

(2) It is not contemplated that these negotiations will be the occasion for upward adjustments in the rates of duty specified in the schedules to the Agreement. However, the presence of delegations of the contracting parties may provide the opportunity for those countries which wish to do so, to undertake consultations in accordance with the provisions of Article XXVIII of the Agreement.

With regard to (a), a communication was addressed on 29th August 1950 to the following countries, which accepted the invitation to participate in the Havana Conference and which are eligible for membership in the ITO according to the provisions of Article 71 of the Charter, informing them that the possibility of arranging for a third set of tariff negotiations in the autumn of 1950 is likely to be considered by the Contracting Parties and forwarding for their information a copy of the Memorandum on the Annecy negotiations (GATT/CP.2/26) :

<u>American Republics</u>	<u>Europe</u>	<u>Middle and Far East</u>
Argentina	Austria	Afghanistan
Bolivia	Iceland	Egypt
Costa Rica	Ireland	Hashimite Jordan Kingdom
Ecuador	Poland	Iran
El Salvador	Portugal	Iraq
Guatemala	Switzerland	Philippines
Mexico		Turkey
Panama		
Paraguay		
Peru		
Venezuela		

This communication was addressed also to countries which did not have the opportunity of participating in the Havana Conference because they did not receive an invitation to so participate, namely Israel and Nepal.

Telegrams are being despatched to all of those countries asking whether they would be interested in participating in tariff negotiations, expected to commence on 28th September, 1950, with a view to acceding to the General Agreement, should such negotiations be decided upon. The contracting parties will be informed without delay of the replies received.

On 30th September, a communication was addressed to the Allied High Commission for Germany enquiring whether the Federal Republic of Germany would be interested in entering into tariff negotiations with a view to acceding to the General Agreement. A communication was addressed also to the Republic of Korea.

In order that all the countries concerned may have time to make the necessary preparations for the negotiations which will commence in

[Geneva] on 28 September 1950, the Secretariat will notify by telegraph, not later than 15 November 1949 a list of the Governments which have accepted the invitation of the CONTRACTING PARTIES.

## II. Scope of the Negotiations

It is intended that the countries participating in the negotiations in 1950 will propose for negotiation those of their products of which they individually, or collectively, are, or are likely to be, the principal suppliers to the countries from which the concessions are asked. This will apply to negotiations between contracting parties and in the case of a new acceding government, the latter will be expected to consider the grant of concessions, as a general rule, on products of which any participating country or any group of participating countries, is, or is likely to be, the principal supplier. And a contracting party will, as a general rule, be expected to consider the grant of concessions on products of which any acceding country by itself or together with other participating countries, constitutes, or is likely to constitute, the principal source of supply.

The Havana Charter provides that, in addition to customs tariffs and other charges on imports and exports, certain regulations, quotas, protection afforded through the operation of import and export monopolies, etc. shall be subject to negotiation in the manner provided in Article 17. The relevant provisions are contained in Articles 16 (including the Annexes thereto), 18, 19 and 31. Accordingly, requests may be submitted for concessions in respect of matters covered by these provisions in the same way as requests for tariff concessions.

## III. Methods of Negotiation

1. The negotiations will be conducted in accordance with the rules set forth in paragraph 2 of Article 17 of the Havana Charter, i.e.

(a) The negotiations shall be conducted on a selective product-by-product basis which will afford adequate opportunity to take into account the needs of individual countries and individual industries. Participating governments will be free not to grant concessions on particular products and, in the granting of a concession, they may reduce the duty, bind it at its then existing level, or undertake not to raise it above a specified higher level.

(b) No participating government shall be required to grant unilateral concessions, or to grant concessions to other governments without receiving adequate concessions in return. Account shall be taken of the value to any government of obtaining in its own right and by direct obligation the indirect concessions already embodied in the Schedules to the General Agreement.

(c) In negotiations relating to any specific product with respect to which a preference applies,

(i) when a reduction is negotiated only in the most-favoured-nation rate, such reduction shall operate automatically to reduce or eliminate the margin of preference applicable to that product;

(ii) when a reduction is negotiated only in the preferential rate, the most-favoured-nation rate shall automatically be reduced to the extent of such reduction;

(iii) when it is agreed that reductions will be negotiated in both the most-favoured-nation rate and the preferential rate, the reduction in each shall be that agreed by the parties to the negotiations; and

(iv) no margin of preference shall be increased.

(d) The binding against increase of low duties or of duty-free treatment shall in principle be recognized as a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

(e) Prior international obligations shall not be invoked to frustrate negotiations with respect to preferences, it being understood that agreements which result from such negotiations and which conflict with such obligations shall not require the modification or termination of such obligations except with the consent of the parties to such obligations, or in the absence of such by modification or termination of such obligations in accordance with their terms.

2. An important consideration to be taken into account by the acceding governments in their negotiations with contracting parties is the indirect benefit they are enjoying as a result of the concessions exchanged by the latter at Geneva and Annecy. It will be expected, therefore, that in granting tariff concessions acceding governments will take into consideration these indirect benefits and those which will

result from new negotiations among contracting parties. Similarly, all the participating governments will be expected to take into consideration the indirect benefits which they will receive from the negotiations between the acceding governments themselves and between them and the contracting parties.

3. In order to ensure the success of the negotiations, the participating governments shall refrain from increases in tariffs and other protective measures inconsistent with the principles of the Havana Charter and designed to improve the bargaining position of these governments in preparation for the negotiations. As a general rule, the basis for negotiations shall be the rates of duty in effect on 15 November 1949.

4. In exceptional cases a country may find that a general revision of its tariff prior to the negotiations is unavoidable. In making any such revision, the country concerned should have regard to the principles stated in the preceding paragraph. In the event of a change in the form of tariff or a general revision of rates of duties to take account of either a rise in prices or the devaluation of the currency of the country which has introduced the new tariff, the effects of such change or such revision would be a matter for consultation between the acceding country and the other participating countries, acting jointly, in order to determine first, the change, if any, in the incidence of the duties of the country concerned, and secondly, whether the change affords a reasonable basis for a reciprocal and mutually advantageous conclusion of the negotiations. Moreover, except in special circumstances, any general revision in tariff nomenclature of rates of duty shall not be considered a satisfactory basis for negotiations unless it has been promulgated prior to 28 September, 1950.

#### IV. Timetable for the Negotiations

1. At the earliest possible date and in no case later than 22 November, 1949, each participating government will send to each other participating government and to the Secretariat, three copies of its current customs tariff, details of other import charges or taxes and one copy (if possible, three) of its annual import trade statistics for postwar years. In addition, it is requested that every effort should be made to supply average import statistics for 1936 to 1938 or, if this

is not possible, statistics for 1936, 1937 and 1938, or if neither of these is possible, statistics for the most representative pre-war year. Governments which participated in the Geneva and/or Annecy negotiations will not be expected to supply copies to governments to which they were supplied on those previous occasions, but they will be expected to supply details of subsequent tariff changes and copies of any more recent trade statistics that may be available. In cases where transmission by surface post will occupy more than one week, the documents should be despatched by air mail. Each participating government will advise the other participating governments and the Secretariat, by telegram, the particulars of the documents despatched and the date and method of despatch.

2. It must be recognised that the foreign trade statistics of many countries are not compiled on the basis of their customs tariffs and therefore it cannot be reliably ascertained from the statistics of trade to which customs duties the various statistical items are subject. Consequently, participating governments will, in some cases, experience difficulty in determining the articles on which to request concessions and in calculating the value of concessions offered. Moreover, the customs tariffs of some countries contain the general, but not the conventional, rates of duty, and the texts of many statistical and customs publications are not available in any of the well-known languages. In order to avoid these difficulties, and to assist in the preparations for the negotiations and also in the actual conduct of the negotiations, participating governments are asked to do their best to meet all requests which may be directed to them for additional information relating to their tariffs and statistics. (See the proposal of the Delegation of Czechoslovakia in document GATT/CP/37).

3. Not later than 15 January, 1950 each participating government will transmit, by the most expeditious means available, to each other participating government, with which it wishes to negotiate, a list of the products on which it intends to request concessions. Sixty copies of each list will be sent simultaneously to the Secretariat for distribution to the other participating governments. In order to facilitate preparations for the negotiations it is important that the date of 15 January be adhered to. The United States Government is required by its statutory procedure to give public notice of all items



in its tariff which are to be the subject of negotiations, and therefore it will not be possible for that government to enter into negotiations on any products which are not included in these lists. A similar situation may exist for certain other governments and therefore items not included in these lists may be excluded from the negotiations.

4. Not later than 15 June, 1950, each government will transmit to each other participating government a final list of the tariff and other concessions which it requests from that government. Sixty copies of each list will be sent simultaneously to the Secretariat for distribution to the other participating governments. It is strongly recommended that all countries send their lists as early as possible in advance of 15 June, 1950.

5. On 28 September, 1950 - that is, on the first day of the meeting in Geneva - each government should be ready to make known the concessions it is prepared to offer to each government from which a request for concessions was received. These offers should include an indication of the existing and of the proposed rate of duty on each item. When the offers have been exchanged, negotiations between pairs of delegations will begin.

6. It will be understood that any two participating governments may arrange between themselves to conduct bilateral talks in advance of the multilateral negotiations in Geneva. In that event the exchange of requests and offers may be arranged to take place at earlier dates than those stipulated above. In the event that bilateral talks should be successfully concluded prior to 28 September, 1950 the results will be reported at the opening of the Geneva meeting.

#### V. Procedures at Geneva

In accordance with the successful procedure adopted at Geneva in 1947 and at Annecy in 1949, a "Tariff Negotiations Working Party" will be established at the opening of the conference. This Working Party will be responsible for ascertaining the progress of the negotiations and will make recommendations on questions of procedure and other matters connected with the conduct and the conclusion of the negotiations. In addition, arrangements will be made to prevent the disclosure of confidential material.

Each participating government will prepare for distribution through the Secretariat a consolidated list of the concessions it has granted and a supplementary list showing the country or countries with which each concession was initially negotiated. When all the negotiations are completed the accession of governments, not previously contracting parties, will be effected by appropriate instruments. The concessions granted will thereby be incorporated in the Agreement.