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ORIGINAL: ~~ENGLISH~~

GENERAL AGREEMENT ON TARIFFS AND TRADE

Second session of the contracting parties

(Item 7 of the Provisional Agenda)

NOTE ON THE STATUS OF THE AGREEMENT AND PROTOCOLS

Protocol of Provisional Application

Eight of the signatories of the Final Act, adopted at Geneva on 30 October 1947, signed the Protocol of Provisional Application prior to 15 November, and have accordingly applied the Agreement provisionally since 1 January 1948. Fourteen other signatories of the Final Act have since signed the Protocol and thus, as from 30 July 1948, twenty-two of the twenty-three signatories will be applying the Agreement.

The Government of Chile, which did not sign the Protocol by 30 June, has asked for an extension of time. The request of the Government of Chile appears in a separate paper (GATT/CP.2/5) and will be discussed under a separate item on the Agenda.

The Netherlands and the United Kingdom have notified their intention to apply the Agreement provisionally in respect of overseas territories - the Netherlands in respect of all overseas territories as from 11 March, and the United Kingdom in respect of Newfoundland from 1 January, Palestine from 19 April and all other overseas territories, except Jamaica, from 28 July 1948.

Three governments, namely Ceylon, India and Pakistan, signed the Protocol with reservations which are reproduced in the Annex to this Note.

Supersession

Paragraph 2 (a) of Article XXIX provides that, on the day on which the Havana Charter enters into force, Article I and Part II of the Agreement shall be suspended and superseded by the corresponding provisions of the Charter, but Contracting Parties were allowed sixty days after the close of the Havana Conference to lodge objections to any provision of the Agreement being so suspended or superseded. No objections were lodged under this Article and, consequently, Article I and Part II of the Agreement will be superseded when the Charter enters into force.

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Protocol of Rectifications

All twenty-three signatories of the Final Act signed this Protocol at Havana and consequently, since 24 March 1948, the provisions of the Protocol have constituted an integral part of the Agreement and the rectifications included therein are applied as if they had formed a part of the Agreement on 30 October 1947.

Protocol Modifying Certain Provisions

Notwithstanding the provisions of Article XXX, the modifications provided for in this Protocol became an integral part of the Agreement on 15 April 1948. Thus Articles XXV, XXXII and XXXIII have been amended as provided in this Protocol and the new Article XXXV has been inserted in the Agreement.

Protocol Modifying Article XIV

Notwithstanding the provisions of Article XXX, this Protocol entered into force on the day on which it was signed by all the Governments which were at that time Contracting Parties. When the Protocol was signed by the United Kingdom on 19 April it had been signed by all other Contracting Parties and consequently it entered into force on that date.

This Protocol provides that on and after 1 January 1949, Article XIV and the Interpretative Notes to Article XIV in Annex I shall be amended to read as set forth in the Protocol and that Annex J with its Interpretative Note shall be added to the Agreement.

Under paragraph 1 (d) of Article XIV any of the twenty-two Governments which is applying the Agreement under the Protocol of Provisional Application may elect, by written notice to the CONTRACTING PARTIES before 1 January 1949, to be governed by the provisions of Annex J of the Agreement in lieu of the provisions of sub-paragraphs (b) and (c) of paragraph 1 of Article XIV.

Moreover, these twenty-two Governments, in anticipation of their possible subsequent acceptance of the Havana Charter, may elect, by written notice to the Interim Commission before 1 January 1949, to be governed, after the Charter comes into force, by the provisions of Annex K of the Charter in lieu of the provisions of sub-paragraphs (b) and (c) of paragraph 1 of Article 23 of the Charter.

Protocol Amending Article XXIV

This Protocol amends Article XXIV and the Interpretative Notes to Article XXIV in Annex I, and it becomes effective in accordance with Article XXX in respect of those Contracting Parties which accept it, upon acceptance by two-thirds of the Contracting Parties. On 7 June there were eleven Contracting Parties. The Government of Belgium deposited its

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instrument of acceptance on that date; this was the eighth instrument of acceptance received by the Secretary-General of the United Nations and consequently the Protocol became effective in respect of those eight Contracting Parties on 7 June. It became effective in respect of France when the French Government's instrument of acceptance was deposited on 14 June. Also the Netherlands Government has addressed to the Executive Secretary a letter which appears to constitute an instrument of acceptance. The Protocol will become effective in respect of other Contracting Parties as and when instruments of acceptance are deposited.

Article XVIII

In view of the number of new Contracting Parties, it is thought it would be useful to draw attention to paragraph 6 of Article XVIII whereunder any Contracting Party is permitted to maintain any non-discriminatory measure, in force on 1 September 1947, which was imposed for the establishment, development or reconstruction of particular industries or particular branches of agriculture and which is not otherwise permitted by this Agreement, provided that the other Contracting Parties were notified by 10 October 1947, of each product on which any such existing measure is to be maintained and of the nature and purpose of such measure. However, a Contracting Party maintaining any such measure is required, within sixty days of becoming a Contracting Party, to notify the CONTRACTING PARTIES of the measure concerned, the considerations in support of its maintenance and the period for which it wishes to maintain the measure. The CONTRACTING PARTIES are required, as soon as possible but in any case within twelve months from the day on which such Contracting Party becomes a Contracting Party, to examine and give a decision concerning the measure.

Reprint of the Agreement

The Contracting Parties may wish to consider the desirability, for ease of reference, of arranging for the Agreement to be reprinted in the form in which it has been amended by its various Protocols.

ANNEX

PROTOCOL OF PROVISIONAL APPLICATION

RESERVATIONS TO SIGNATURES

Ceylon

"This signature is subject to the qualification that in regard to such of the items appearing in the schedule of tariffs on which Ceylon has recently increased the rate of import duty for reasons of revenue purposes and for balance of payments, Ceylon proposes to enter into fresh bilateral negotiations with the countries concerned".

Pakistan

"Under Article XXXV of the General Agreement, Pakistan will not extend most favoured nation treatment in applying the provisions of this Agreement to South Africa at present".

India

"(a) That the Government of India withhold their consent, under Article XXXV, to the agreement being applied as between India and South Africa if and when South Africa becomes a contracting party.

"(b) That upon the expiration of thirty days from the date of signature, the Government of India would give provisional effect to the agreed tariff concessions on most, but not all, of the items in Schedule XII to the agreement, vide paragraph 3 of Protocol. The excepted items are indicated below:

- (1) Ex 20 (1): certain fruit juices
- (2) Ex 20 (2): certain canned fruits
- (3) Ex 20 (2): pineapples canned.
- (4) 24 (3): tobacco, un-manufactured
- (5) Ex 28: certain chemicals, drugs and medicines
- (6) 75 (1): motor cars and parts and accessories thereof."

The Government of India has given the following explanation of reservation (b):

"(i) That the excepted items mentioned above are those in respect of which the Government of India have agreed to reductions in margins of preference without any commitment as regards the level of either the most favoured nation or the preferential rates of import duty;

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(ii) That the prior approval of the Indian Legislature (which is not now in session) is necessary for giving provisional effect to the agreed concessions in these cases;

(iii) That the Government of India proposes promoting the necessary legislation at the ensuing autumn session of the Legislature;

(iv) That, in respect of "Motor cars and parts and accessories thereof", the Government of India has already made a reduction recently in the margin of preference from 9 per cent to 7.1/2 per cent."

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