

RESTRICTED
LIMITED B

GATT/CP.2/23
27 August 1948

ORIGINAL: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session

Working Party 2 on Tariff Negotiations

First Report to the Contracting Parties.

The Working Party on Tariff Negotiations was appointed at the third meeting of the Second Session of the Contracting Parties on 17 August 1948.

The Working Party has held five meetings under the Chairmanship of Mr. B.N. ADARKAR, the representative of India. All the members of the Working Party namely, the representatives of Belgium, Brazil, France, Lebanon, South Africa, United Kingdom and United States, have participated in the deliberations and, by invitation, the representatives of other contracting parties, particularly Australia and the Netherlands, and the observers for Finland, Italy and Sweden, also took part in the discussions.

The Working Party was instructed to study the question of the scheduling of future tariff negotiations and to report on the procedures to be followed. Subsequently two further questions were referred to the Working Party, namely the requests of Pakistan and Cuba for the renegotiation of certain items in Schedules to the General Agreement.

The present report relates only to the arrangements for tariff negotiations. The Working Party will report on the other two questions at a later date.

The main task undertaken by the Working Party was the preparation of a memorandum to be issued by the contracting parties for the guidance of the governments wishing to accede to the Agreement. The memorandum recommended by the Working Party is given as an Annex to this Report.

In Section V of the draft memorandum, which describes the procedures at Geneva, the Working Party has not included a definite recommendation for the incorporation of the results of the negotiations in the General Agreement, since they consider that it is not possible to foresee the circumstances and requirements so far in advance and that it is therefore premature to take a decision at this stage on the exact nature of the instruments to be signed.

There is a point to which the working Party wishes to draw attention. Section V provides that at the conclusion of the Geneva meeting each participating government will supply a supplementary consolidated list of all the concessions granted to the other participating governments

showing the country with which each concession was initially negotiated. Similar lists were to have been exchanged at the conclusion of the negotiations in 1947, but it appears that many of the Contracting Parties have not yet been able to comply with the request which was then made. It is now recommended by the Working Party that steps should be taken by all contracting parties to ensure that each other contracting party and the Secretariat receive a consolidated list in the form indicated.

The representative of Australia, in a statement to the Working Party, explained that his Government would experience difficulties in commencing negotiations with certain countries as early as 11 April, 1949. He suggested that the ultimate date for the completion of the negotiations should be 31 December 1949. The Working Party considers that it would be impracticable to postpone commencement of the negotiations beyond 11th April. The Working Party recommends that Australia may seek a solution for its particular difficulties in the course of their negotiations with the countries concerned.

ANNEX

to the Report of Working Party No. 2 on Tariff Negotiations

Draft Memorandum on Tariff Negotiations

I. Purpose of the Negotiations

The contracting parties to the General Agreement on Tariffs and Trade, at their Second Session in Geneva in August 1948, resolved to invite the governments which showed their interest in the proposed International Trade Organization, by accepting the invitation to the United Nations Conference on Trade and Employment at Havana, to enter into negotiations with a view to their accession to the Agreement.

In 1947 the contracting parties, in their capacity as members of the Preparatory Committee for the Trade and Employment Conference, gave effect to one of the fundamental principles of the draft Charter by carrying out negotiations directed to the substantial reduction of the general level of tariffs and to the elimination of preferences on a reciprocal and mutually advantageous basis. In order that further progress may be made towards expanding the volume of world trade, the contracting parties invite the governments referred to above to enter upon similar negotiations with them. In most cases these countries are enjoying the benefit of the tariff reductions negotiated by the contracting parties and incorporated in the Schedules to the General Agreement. But even so they will 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.

The main part and the final phase of the negotiations will take place in Geneva commencing on 11 April, 1949, but it will be necessary to begin preparations immediately. In order that no time will be lost in the preparatory work, the Secretariat of the contracting parties will notify by telegraph, not later than 13 September, 1948, a list of governments which will participate in the next series of negotiations, i.e. the contracting parties and the governments which wish to participate with a view to acceding to the Agreement. An acceding government should be prepared to negotiate with any contracting party and with any other acceding government. There will, generally, be no negotiations between the contracting parties themselves, but it may be that, by mutual and by general agreement, some of them will take the opportunity to complete certain negotiations which were left unfinished at the Geneva meeting in 1947 and to make certain adjustments found to be necessary in the existing Schedules to the Agreement.

II. Scope of the Negotiations

It is intended that the countries participating in the negotiations in 1949 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 whom the concessions are asked. In other words, an acceding government 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. This latter rule will not apply to products which already appear in the Schedules to the Agreement, except that it is not meant to prevent an acceding government from asking for concessions on products appearing in the Schedules in which it has a special interest; in such cases, however, the government submitting the request will be expected to take fully into account the concessions already granted on the products concerned.

The Havana Charter provides that, in addition to customs tariffs and other charges on imports and exports, certain regulations, quotas, protection afforded through the operations 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

The negotiations will be conducted in accordance with the rules set forth in paragraph 2 of Article 17 of the Havana Charter

(a) the negotiations will 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 will 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 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;
 - (iv) no margin of preference shall be increased.
- (d) The binding against increase of low duties or of duty-free treatment will 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 (i) with the consent of the parties to such obligations, or, in the absence of such consent, (ii) by modification or termination of such obligations in accordance with their terms.
- (f) It is important that members do not effect new tariff measures prior to the negotiations which would tend to prejudice the success of the negotiations in achieving progress toward the objective set forth in Article 17 of the Havana Charter, and they should not seek to improve their bargaining position by tariff or other restrictive measures in preparation for the negotiations. In the event of a change in the form of tariff or a revision of rates of duties to take account of either a rise in prices or the devaluation of the currency of the country maintaining the tariff, the effects of such change or such revision would be a matter for consideration during the negotiations in order to determine, first, the change, if any, in the incidence of the duties of the country concerned, and secondly, whether the change is such as to afford a reasonable basis for negotiations.

(g) In a few exceptional cases, a general revision of tariffs prior to the negotiations may be found unavoidable. In making any such revision, the countries concerned should have regard to the principles stated in the preceding paragraph. It is suggested that such countries should notify the Secretariat, by telegram, not later than 13 September 1948, of their decision in regard to participation in the forthcoming negotiations and the latest date by which copies of their existing and revised Customs Tariff will be supplied to other participating governments as provided in the time-table below. They should comply with all the requirements of the time-table except those relating to copies of the Customs Tariff. Negotiations will take place with such countries if the supply of copies of the revised tariff is not delayed so long as to render such negotiations impracticable and if the principles stated in paragraph (f) have been observed.

IV. Time-table for the Negotiations

(i) At the earliest possible date and in no case later than 15 September 1948, each contracting party will send to each acceding government, and each of the latter will send to each other participating government, three copies of its customs tariff and one copy (if possible, three) of its latest annual import trade statistics. 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, for 1936, 1937 and 1938, or if neither of these is possible, statistics for the most representative of those three years. Each participating government will advise the participating government concerned and the Secretariat, by telegram, the particulars of the documents despatched and the date and method of despatch.

(ii) The United States Government are required by their statutory procedure to give public notice of all items in their tariff which are to be the subject of negotiations. Not later than 31 October 1948, therefore, each acceding government will transmit to the United States Government, by the most expeditious means available, a list of the products on which it intends to request concessions from that government. The United States Government will take reciprocal action not later than 31 October 1948. It will not be possible for the United States Government to enter into negotiations on any products which are not included in these first lists. Any other participating government which wishes to exchange preliminary and provisional lists with participating governments other than the United States in advance of the definitive lists provided for in paragraph (iv), will notify the Secretariat to that effect not later than the 13 September 1948, and the last date for the transmission of such lists will be the 30 November 1948. It is hoped that exchange of such preliminary lists will not be requested except where it is considered absolutely essential, since many of the acceding governments may find it difficult to prepare a large

number of such lists within the time prescribed. Forty copies of the preliminary lists, including the lists exchanged between the United States Government and acceding governments, will be sent to the Secretariat simultaneously with their transmission to the governments to which they are addressed for distribution to the other participating governments.

(iii) It is essential for the successful conduct of the forthcoming negotiations that the above time-table should be strictly adhered to. It is understood, however, that certain governments (other than contracting parties) may be unable, for reasons beyond their control, to notify their decisions in regard to participation by 13 September 1948, or to supply the necessary documents by 15 September 1948. Such governments will nevertheless be expected to take the necessary action within a very short time after the dates prescribed and to conform to the remainder of the time-table so as to make the negotiations practicable.

(iv) Not later than 1 January 1949, each government will transmit to each other participating government a final list of the tariff and other concessions which it requests from that government. Forty copies of these lists will be sent simultaneously to the Secretariat for distribution to the participating governments. When compiling lists of requests, whether preliminary or definitive, participating governments should not include products which appear in the Schedules to the Agreement unless they propose to request a concession going beyond those provided in the Schedules.

(v) On 11 April, 1949, - that is, on the first day of the meeting in Geneva - each government will make known to all participating governments the concessions which it is prepared to offer to each government from which a request for concessions was received. These offers should include indications of the existing and the proposed rate of duty on each item.

(vi) 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 preliminary requests and offers may be arranged to take place at earlier dates than those envisaged above, but the concessions offered need not be disclosed to other participating governments until the opening of the Geneva meeting. In the event that bilateral talks should be successfully concluded prior to 11 April, the results will be reported to the other participating governments at the opening of the Geneva meeting and will be subject to review and adjustment in accordance with the procedures set forth in the following paragraphs.

V. Procedures at Geneva

When the concessions offered by all participating governments have been exchanged and distributed, negotiations between pairs of delegations will begin. Any alterations in the initial list of offers will be immediately notified to the Secretariat for the information of all participating governments. At this stage, as in the distribution of lists of requests, arrangements will be made to prevent the leakage of any confidential material to the public.

To follow the successful procedure adopted in 1947, the participating governments may decide to establish a "Tariff Negotiations Working Party", which will be responsible for ascertaining the progress of the negotiations and which will make recommendations on questions of procedure and other matters connected with the conduct of the negotiations and prepare the legal instruments to be signed at the conclusion of the proceedings.

As each negotiation is concluded, lists of the concessions to be exchanged will be conveyed to the Secretariat and to all other delegations. These results will be subject to review and adjustment in the light of the results of other negotiations. Each participating government will arrange through the Secretariat for the distribution to each other participating government of a consolidated list of all concessions granted.

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