

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED

LIMITED B.
GATT/CP.3/17
29 April 1949

ORIGINAL: ENGLISH

Contracting Parties

Third Session

The Position of Palestine in Relation to
the Agreement. Item 8 of the Agenda.
(GATT/CP.3/2.Rev.2 and CP.3/2.Rev.1 Add.3)

Note by the Secretariat

Having given careful consideration to the question raised by the representative of Czechoslovakia, the Secretariat submit the following for consideration by the Contracting Parties:

- 1) The first question to be answered is whether or not the State of Israel may be regarded as being bound by obligations under GATT contracted by the Government of the United Kingdom acting as the mandatory power for Palestine. It is considered that Israel should not be regarded as bound. The doctrine of State succession in international law is not well defined but, generally speaking, the authorities agree that there is no automatic succession to obligations arising from commercial treaties such as the GATT. The fact that the obligations under GATT are far-reaching and important reinforces the conclusion that there should be no succession. It appears, moreover, that the Government of Israel has not made any declaration indicating that it is willing to be regarded as bound by obligations under GATT. It is therefore suggested that the answer to the first question must be that Israel could not be regarded as being bound by obligations under the GATT.
- 2) The second question is, what is to be done in the light of this conclusion. In this connection it is relevant to record that the

United Kingdom negotiated in Geneva on behalf of the mandated territory and the concessions negotiated on behalf of Palestine are contained in a separate section of Schedule XIX. Moreover, the concessions were applied separately in respect of Palestine by notice on March 20, 1948, to the Secretary-General of the United Nations, in accordance with Paragraph 2 of the Protocol of Provisional Application.

Accordingly, it is considered that the case falls to be dealt with in accordance with the principles embodied in Article XXVII of the GATT and that the United Kingdom should be regarded as having ceased to be a contracting party with respect to the customs territory formerly included in the Palestine mandate, on 15 May, 1948, at which date the United Kingdom ceased to be responsible for the mandated territory of Palestine. Accordingly, any contracting party is free at any time to withhold or withdraw, in whole or in part, any concession included in the appropriate schedule annexed to the GATT which was negotiated with the United Kingdom in respect of products of the territory then included in the Palestine mandate. The contracting party taking such action must give notice to all other contracting parties and, upon request, consult all the contracting parties which have a substantial interest in the product concerned.

If this view is accepted by the Contracting Parties it is suggested that a declaration to this effect be made in the following terms:

WHEREAS the Government of the United Kingdom in the course of the negotiations leading to the drawing up of the General Agreement on Tariffs and Trade in Geneva in 1947, negotiated on behalf of the mandated territory of Palestine for concessions to be accorded to products originating in such territory and for concessions to be accorded to the products of other Contracting Parties entering such territory, and

WHEREAS the Government of the United Kingdom ceased to be

responsible for the mandated territory of Palestine on 15 May, 1948, the Contracting Parties declare that the United Kingdom ceased, as from 15 May, 1948, to be a contracting party in respect of the territory formerly included in the Palestine mandate, and accordingly that any contracting party shall, in accordance with Article XXVII of the General Agreement, be free at any time to withhold or to withdraw, in whole or in part, any concession provided for in the appropriate schedule annexed to the GATT which such contracting party determines was initially negotiated with the United Kingdom on behalf of Palestine, provided that the contracting party taking such action shall give notice to all other Contracting Parties and, upon request, consult with the Contracting Parties which have a substantial interest in the product concerned.