

GENERAL AGREEMENT  
ON TARIFFS AND  
TRADE

ACCORD GENERAL SUR  
LES TARIFS DOUANIERS  
ET LE COMMERCE

RESTRICTED  
LIMITED C

GATT/CP.3/34  
26 May 1949  
FRENCH

Original: ENGLISH

---

CONTRACTING PARTIES

Third Session

WORKING PARTY 2 ON ARTICLE XVIII

Memorandum of Guidance for Notification of Non-Discriminatory Measures by Acceding Governments.

In accordance with the terms of the first report of Working Party 2 on Article XVIII, GATT/CP.3/21, which was adopted by the CONTRACTING PARTIES, the memorandum referred to in paragraph 4 thereof has been transmitted to the delegations of the Acceding Governments in the following terms:

"I have the honour to refer to the first report of Working Party 2 on Article XVIII which was attached to my letter of May 20, 1949.

In that report reference was made to a memorandum which might be useful to acceding governments in determining measures for notification under paragraph 11 of Article XVIII.

This memorandum has been prepared by the Working Party and gives a brief explanation of the various criteria which have been applied by it in considering the eligibility of measures already notified by present contracting parties.

A copy of the memorandum prepared by the Working Party is accordingly forwarded for your information. As was stated in the report, the Working Party would be available to provide any supplementary information regarding the eligibility of measures for notification under paragraph 11 of Article XVIII that might be desired".

A copy of the memorandum referred to is appended.

MEMORANDUM OF GUIDANCE FOR ACCEDING  
GOVERNMENTS IN DETERMINING MEASURES FOR NOTIFICATION  
UNDER PARAGRAPH 11 OF ARTICLE XVIII

Article XVIII prescribes the conditions and procedures governing protective measures which affect imports and which are imposed for the purpose of economic development. Paragraphs 6-10 set out the procedures affecting new measures of this kind which are imposed on items other than those included in the Schedules resulting from the tariff negotiations and which would conflict with other provisions of the General Agreement if they were not thus provided for in those paragraphs. Paragraphs 11-13 concern measures of a similar kind which, however, are in force on a prescribed date. Acceding governments have been invited to notify to the CONTRACTING PARTIES by June 15, 1949, measures in force on May 14, 1949, which are appropriate for notification under paragraph 11 of Article XVIII.

The Working Party felt that it would be helpful to acceding governments in deciding whether protective measures in force in their countries fall within the provisions of paragraph 11, if a brief explanation were given of the various criteria which have been applied in their consideration of measures already notified under that paragraph by present contracting parties. Accordingly a brief explanatory note on each of these criteria follows:

1. Date on which measures are required to be in force and date of notification.

In the case of the present contracting parties the dates prescribed by paragraph 11 of Article XVIII are 1st September 1947 and 10th October 1947 respectively. In the case of the new acceding governments the Working Party has recommended that the dates for this purpose be 14th May 1949 and 15th June 1949.

2. Relevance of obligations under Article II of the Agreement.

Paragraph 13 of Article XVIII requires that the existing measures notified under paragraph 11 do not relate to a product in respect of

which the contracting party has assumed an obligation under Article II of the Agreement. Protective measures relating to products in respect of which the customs duties, for instance, have been bound in the course of the present negotiations would not be eligible for such notification.

3. Relation of the measures to other provisions of the General Agreement.

Before notifying the measures, acceding governments should consider whether they are permitted under other provisions of the Agreement, such as, for example, Article XII.

4. Non-discriminatory character.

In order to qualify for consideration under this requirement a protective measure must apply without discrimination to all contracting parties which supply the product in question.

5. Purpose of the measure.

It is clearly required that the measure concerned be one which has been imposed for the establishment, development or reconstruction of a particular industry or branch of agriculture. In the course of examining the measures notified by contracting parties to determine whether they were eligible for notification under paragraph 11, the Working Party has asked the representatives of contracting parties concerned for clear evidence that the measures were in fact imposed for one or other of these purposes.