

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
LIMITED B
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ORIGINAL: ENGLISH

Contracting Parties
Fourth Session

REPORT OF WORKING PARTY "B" ON THE REVALIDATION OF THE GENEVA AND ANNECY SCHEDULES

1. In accordance with its terms of reference, the Working Party examined the proposal submitted by the United Kingdom Government to prolong for a further period beyond January 1, 1951, the concessions negotiated at Geneva and Annecy and embodied in the existing Schedules to the General Agreement. The Working Party was of the opinion that it was essential for the success of the Torquay tariff conference that the concessions negotiated at Geneva and Annecy should remain fully valid for a further period and that such period should be the same as the period during which the new concessions negotiated at Torquay would remain fully valid.

2. The Working Party considered that it would be appropriate to select the date of January 1, 1954, as that on or after which concessions negotiated under the General Agreement could be subject to modifications in accordance with the provisions of Article XXVIII; if that suggestion were approved, the new concessions would have an assured life of about three years as has been the case for the concessions negotiated at Geneva in 1947. The representative of the Republic of the United States of Indonesia stated, however, that his present instructions did not enable him to commit his government to a prolongation of more than two years as his government was examining the possibility of revising its customs tariff before 1954; he wished therefore to reserve the position of his government until the opening of the Torquay tariff conference.

3. The Working Party then addressed itself to the examination of the methods by which the purpose of the United Kingdom proposal could be achieved.

4. After considering various alternatives, the Working Party came to the conclusion that some action should be taken by the Contracting Parties before the end of the present session; it therefore recommends that the Contracting Parties should adopt a resolution (the text of which is contained in Annex 1) by which they would indicate to all governments participating in the Torquay tariff negotiations that the most desirable basis for such negotiations would be the assumption that the assured life of the Geneva and Annecy Schedules would be prolonged for a further period beyond January 1, 1951, and the securing of the full validity of the body of concessions resulting from the Geneva, Annecy and Torquay negotiations until January 1, 1954. It is accordingly suggested that (a) those governments which are not contracting parties at the present time but which propose to accede to the General Agreement under the Annecy Protocol of Terms of Accession should be invited to associate themselves with the Resolution, and (b) inasmuch as

the contemplated prolongation would involve that the new concessions negotiated at Torquay would also remain fully valid until January 1, 1954, those governments which will be negotiating at Torquay for the first time with a view to acceding to the General Agreement should be apprised of the proposals, so that they may have the opportunity of expressing views upon them, if they so desire, and may make their preparations for the Torquay negotiations on the basis that the concessions which they there negotiate will remain fully valid until January 1, 1954.

5. The text of the draft Resolution is self-explanatory; it might however be useful to point out that the third paragraph of the preamble to the Resolution was inserted in order to meet the views of some representatives who pointed out that the willingness of their government to prolong the assured life of the Geneva and Annecy concessions depended to a certain extent on the results of the Torquay negotiations and to remind the participating governments that ~~the~~ products described in the Geneva and Annecy Schedules may be subject at Torquay to further negotiations in order to arrive at new or additional reductions.

The Netherlands and Belgian Delegations stated in particular that the decision of their Governments would depend to a large extent on a considerable reduction - especially in Europe - of the disequilibrium that in their view exists in general levels of tariffs. The delegations of Denmark and Luxemburg associated themselves with this statement.

6. The second recommendation contained in the draft resolution is intended to draw the attention of all the governments which will be contracting parties when the Torquay negotiations are conducted to the desirability of securing the necessary authority to prolong the assured life of the Geneva and Annecy concessions at the conclusion of the Torquay negotiations. The Working Party wishes to stress the importance of this recommendation which will promote the success of the tariff negotiations and enable the governments which propose to accede as a result of the Torquay negotiations to sign promptly the Protocol of terms of accession which will no doubt be approved at the conclusion of these negotiations.

7. In order to secure until January 1, 1954, the assured life of all the concessions negotiated under the General Agreement, the Working Party considers that the following instruments should be approved and executed at the close of the Torquay negotiations :

- (a) a Protocol of terms of accession (along the lines of the Annecy Protocol), and any other instrument that may be found appropriate, which would contain a provision to the effect that the concessions negotiated at Torquay by the contracting parties and other participating governments cannot be modified in accordance with the provisions of Article XXVIII prior to January 1, 1954;

- (b) a Protocol modifying Article XXVIII of the General Agreement (see Annex II) which would prolong the assured life of the Geneva and Annecy concessions until the same date. In accordance with the procedure laid down at Annecy the governments proposing to accede to the General Agreement would be requested to accept this Protocol at the time they accede to the General Agreement, if the Protocol has not entered into force before their accession;
- (c) a Declaration (see Annex III) by which the contracting parties at the close of the Torquay conference would waive their right to modify, prior to January 1, 1954, the treatment provided for in the Schedules annexed to the General Agreement (i.e. the Geneva and Annecy Schedules as they would appear at the close of the Torquay conference).

It is suggested that if some adjustments are made in the Geneva or Annecy Schedules in accordance with the provisions of Article XXVIII before the close of the Torquay negotiations, such adjustments, as well as any compensatory adjustments which may be agreed upon with respect to other products pursuant to the provisions of paragraph 1 of that Article, should be listed in an Annex to that Declaration.

8. The Working Party felt that it would be advisable to have two instruments to prolong the assured life of the Geneva and Annecy concessions. The adoption of a formal amendment to Article XXVIII would be required in order to define the legal obligations of the contracting parties in a positive way. This amendment would enter into force when it secures the acceptance of two-thirds of the governments which would be contracting parties at that time. As, however, the required number of contracting parties may not be in a position to accept the protocol of amendment at the close of the Torquay tariff negotiations, there would be a distinct advantage in asking the contracting parties to sign at that time a declaration by which they would waive their right to modify their concessions prior to January 1, 1954. This waiver would immediately enter into force for each government signing the declaration and this procedure would eliminate, or at least reduce to a minimum, the period of uncertainty as to the firm duration of those concessions.

9. The Declaration has been drafted on the assumption that, as a consequence of the acceptance of the Resolution referred to in paragraph 4 above, all or at any rate the great majority of the contracting parties will be in a position to provide their representatives with the necessary authority to give an unqualified signature to the Protocol and/or the Declaration at the end of the Torquay negotiations.

If, however, some contracting parties are not in a position to do so, the interests of the contracting parties which have signed the Protocol and/or the Declaration would be fully safeguarded by a reciprocity clause which has been inserted in paragraph 2 of the Protocol and in paragraph 5 of the Declaration. It should be noted, moreover, that after the Protocol has entered into force the contracting parties would be entitled under paragraph 2 of Article XXX to decide that the amendment to Article XXVIII is of such a nature that it should be accepted within a specified period by any government which desires to remain a contracting party.

Prolonged

10. The Resolution which the Working Party recommends, and indeed the whole procedure which it envisages, is based on the assumption that, at the close of the Torquay negotiations, the Geneva and Annecy Schedules will in effect be ~~revalidated~~ as they now stand. The Working Party assumes, however, that certain limited adjustments may be undertaken as part of the Torquay negotiations in accordance with the provisions of Article XXVIII. The Working Party wishes in this connection to point out that, under Article XXVIII, the parties discussing proposed adjustments to the Schedules are required to endeavour to maintain in such discussions a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for at the present time. This would mean that an attempt should be made to find compensatory concessions which the contracting party invoking Article XXVIII can accord, rather than effecting an adjustment through the retaliatory withdrawal of concessions by a contracting party affected by the invocation of the article.

11. The Working Party was of the opinion that it would be desirable to lay down certain rules for the guidance of the contracting parties involved in such negotiations in order to ensure that the discussions relating to the adjustments under Article XXVIII, while being duly coordinated with the third round of tariff negotiations, do not unduly interfere with them and that all the necessary modifications are agreed upon before the close of the Torquay conference. The following set of rules is submitted to the Contracting Parties for consideration and approval :

- (i) If a contracting party finds it necessary to modify a concession provided for in its Schedule, it should send a notification, accompanied by details of the proposed modification, to the contracting party with which the concession was initially negotiated and, as far as possible, to the other contracting parties believed to be substantially interested, by August 1, 1950. It is recognized that particular contracting parties may not be in a position to give the notification by that date. In such exceptional cases the notification of a modification may be given after this date; but contracting parties in formulating their offers for the Torquay negotiations will be entitled to assume that this deadline has been met, and to exchange their offers on the basis of this assumption or delay such exchange with other contracting parties until assurances have been received that the latter have no intention of giving any subsequent notification affecting products of substantial interest to them. Any notification as to proposed action under Article XXVIII shall, whenever practicable, be accompanied by a statement as to compensatory adjustments with respect to other products which the notifying country is prepared to offer. 45 copies of such notification should be sent simultaneously to the Secretariat for distribution to the other participating governments.

- (ii) At the opening of the tariff negotiations, or within six weeks of the receipt of the notification, whichever is later, the contracting party with which the concession was initially negotiated will indicate to the contracting party which has given the notification any compensation which it wishes to obtain from that contracting party. At the same time the contracting party which has given the notification will indicate to the contracting party with which the concession was initially negotiated any compensatory adjustments with respect to other products it is prepared to offer, and annex to its communication a detailed description of the compensation proposed, to the extent that such information had not previously been communicated by it. The communications provided for in this subparagraph will be circulated through the Secretariat to all participating governments in the same manner as the lists of offers.
- (iii) The negotiations on requests for adjustments under Article XXVIII will be conducted within the framework of the Torquay negotiations, and should be concluded before the end of those negotiations; the results of such negotiations will be communicated simultaneously with the final exchange of lists of concessions, but in a separate list.
- (iv) Other contracting parties having a substantial interest in the proposed adjustments will be given an opportunity, at as early a stage as possible in the course of the Torquay Conference, to be consulted in accordance with the provisions of Article XXVIII.
- (v) The adjustments on which agreement has been reached with the contracting parties concerned will not become final until the multilateral stage of the negotiations is completed.
- (vi) The adjustments made in accordance with the provisions of Article XXVIII will be listed in an Annex to the Declaration to be signed at the close of the Torquay conference.

ANNEX I

RESOLUTION CONCERNING THE PROLONGATION OF THE ASSURED
LIFE OF THE SCHEDULES TO THE GENERAL AGREEMENT ON
TARIFFS AND TRADE

The CONTRACTING PARTIES,

CONSIDERING that one of the objectives of the General Agreement on Tariffs and Trade is the conclusion of reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce,

CONSIDERING that Article 17 of the Havana Charter lays down the principles according to which this objective should be attained,

CONSIDERING that this objective would be furthered by prolonging the assured life of the body of tariff concessions resulting from the negotiations at Geneva and Annecy and by agreeing on additional concessions at Torquay provided the over-all result of the three successive negotiations meets the objective stated in paragraph one above,

CONSIDERING FURTHER that the success of the tariff negotiations to be held at Torquay, commencing on September 28, 1950, would be promoted by such prolongation, in that the governments participating in those negotiations with a view to acceding to the General Agreement would have the assurance that the concessions provided for in the Schedules, from which they would benefit in exchange for the concessions granted by them, would have the same assured life as the latter concessions and,

HAVING ASCERTAINED that the governments which propose to accede to the General Agreement under the Annecy Protocol of Terms of Accession are in agreement with the foregoing statements and with the purpose of this Resolution,

RECOMMEND that the contracting parties maintain beyond January 1, 1951 the assured life of the concessions already granted by them in Geneva and Annecy, and

FURTHER RECOMMEND ^{that} each contracting party ~~take~~ take the necessary steps to be in a position at the conclusion of the Torquay negotiations to prolong until January 1, 1954 the assured life of those schedules of concessions as they would appear in the light of the Torquay negotiations.

ANNEX II

Protocol Modifying Article XXVIII of the General Agreement on Tariffs and Trade.

The contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as the General Agreement),

Desiring to continue the application of the Schedules to the General Agreement until January 1, 1954; and

Desiring, for that purpose, to effect an amendment to Article XXVIII of the General Agreement, pursuant to the provisions of Article ~~XX~~ thereof,

HEREBY AGREE as follows:

1. The text of paragraph 1 of Article XXVIII of the General Agreement shall be amended by the deletion of "On or after January 1, 1951" and the substitution therefor of "On or after January 1, 1954".
2. The provisions of the preceding paragraph shall not apply to concessions initially negotiated, by a contracting party with respect to which the amendment specified in the preceding paragraph is in effect, with a contracting party with respect to which neither such amendment nor the Declaration on the continued application of the Schedules of the General Agreement is in effect.
3. This Protocol shall, following its signature at the close of the Torquay tariff conference, be deposited with the Secretary-General of the United Nations.
4. The deposit of this Protocol will, as from the date of deposit, constitute the deposit of the instrument of acceptance of the amendment set out in paragraph 1 of this Protocol by any government the representative of which has signed this Protocol without any reservation.
5. The instruments of acceptance of those governments which have not signed this Protocol, or which have signed it with a reservation as to acceptance, will be deposited with the Secretary-General of the United Nations.

6. (a) Each government accepting this Protocol does so in respect of its metropolitan territory and of the other territories for whose international relations it is responsible, except such separate customs territories as it shall notify to the Secretary-General of the United Nations at or before the time of its acceptance pursuant to paragraph 4 or 5 of this Protocol.

(b) Any government, which has so notified the Secretary-General, may at any time give notice to the Secretary-General that its acceptance shall be effective in respect of any separate customs territory or territories so excepted and such notice shall take effect on the thirtieth day following the date on which it is received by the Secretary-General.*

7. The amendment set out in paragraph 1 of this Protocol shall, upon deposit of instruments of acceptance pursuant to paragraphs 4 and 5 of this Protocol by two-thirds of the governments which are at that time contracting parties, become effective in accordance with the provisions of Article XXX of the General Agreement.

8. The Secretary-General of the United Nations shall promptly furnish a certified copy of this Protocol and a notification of each acceptance of the amendment set out in paragraph 1 of this Protocol and of the date upon which such amendment becomes effective in accordance with paragraph 7 of this Protocol, to each Member of the United Nations, to each other government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

9. The Secretary-General is authorised to register this Protocol in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the respective representatives, duly authorised, have signed the present Protocol.

DONE at Torquay, in a single copy, in the English and French languages, both texts authentic, this _____ day of _____ 1951.

* This paragraph has been retained in the report pending entry into force of the Protocol Modifying Article XXVI, and notification to the Secretariat by the United Kingdom Delegation that it no longer requests its retention.

ANNEX III

Declaration on the Continued Application of the
Schedules to the General Agreement.

The contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as the General Agreement),

DESIRING to continue the application of the Schedules to the General Agreement until January 1, 1954,

HAVING taken note of the modifications made by the contracting parties concerned in accordance with the provisions of Article XXVIII of the General Agreement in certain items of the said Schedules, which modifications are listed in the Annex to this Declaration,

HEREBY DECLARE that they will not invoke prior to January 1, 1954 the provisions of paragraph 1 of Article XXVIII of the General Agreement to modify or cease to apply the treatment which they have agreed to accord under Article II of the General Agreement to any product described in the appropriate Schedule annexed to the General Agreement.

The provisions of the preceding paragraph shall not apply to concessions initially negotiated with a contracting party with respect to which neither this Declaration nor the Protocol modifying Article XXVIII of the General Agreement is in effect.

The original of this Declaration shall be deposited with the Secretary-General of the United Nations who is authorised to register this Declaration in accordance with Article 102 of the Charter of the United Nations.

The Secretary-General of the United Nations shall promptly furnish a certified copy of this Declaration to each Member of the United Nations, to each other government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

IN WITNESS whereof the respective representatives, duly authorised, have signed the present Declaration.

DONE at Torquay, in a single copy, in the English and French languages, both texts authentic, this _____ day of _____ 1951.

