

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED
LIMITED B

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ORIGINAL: ENGLISH

CONTRACTING PARTIES
Fourth Session

REPORT OF WORKING PARTY C ON SWISS PARTICIPATION
IN THE THIRD ROUND OF TARIFF NEGOTIATIONS

1. On 30 September, 1949, a telegram was sent, on behalf of the Contracting Parties, to the Government of Switzerland enquiring whether it would be prepared to participate in the tariff negotiations scheduled to begin in the autumn of 1950, with a view to acceding to the General Agreement. In its reply (see GATT/TN:2/3) the Government of Switzerland drew attention to two difficulties. The first related to the impossibility of using the Swiss tariff at its present level as a basis for negotiation; the second, the impossibility for Switzerland of accepting certain of the provisions of the General Agreement, which presented problems similar to those which had been discussed in relation to analogous provisions of the Havana Charter at the Havana Conference and at the Second Session of the Executive Committee of the Interim Commission for the ITO. The Swiss Government requested to be informed whether the special situation of Switzerland, "as recognized with respect to the Havana Charter", could also be taken into account with respect to the general provisions of the General Agreement. This communication from the Government of Switzerland was considered by the Contracting Parties at the Eighth Meeting of the Fourth Session and remitted to the Working Party for study and report.

2. The Working Party reviewed the history of the discussion of the Swiss question at the Havana Conference* and at the Second Session of the Executive Committee of the Interim Commission for the ITO**. The Working Party agreed that the problem visualized by the Swiss in connection with possible participation in the GATT was in most respects the same as that visualized in connection with their possible participation in the ITO.

3. All members felt, however, that in view of the unanimous wish that a way be found if possible to enable Switzerland to participate in the Torquay negotiations, the whole question should be examined again by the Working Party.

4. As a first step the Working Party requested its Chairman and the Executive Secretary to put three questions to the representative of the Swiss Government:-

(a) whether Switzerland did in fact wish to participate in the 1950 negotiations;

* See Report of Sub-Committee G of the Third Committee on the Swiss Proposal, Reports of Committees and Principal Sub-Committees of the United Nations Conference on Trade and Employment, p.102 et seq.

** See ICITO/EC:2/9, EC:2/18 Rev.1, EC:2/SR:4, EC:2/SR:15, EC:2/W:1.

- (b) whether, in view of the current revision of the Swiss tariff, it would in fact be possible for Switzerland to participate and if so, on the basis of what tariff;
- (c) whether the difficulties which Switzerland foresaw in adhering to the Havana Charter were in fact relevant to its adherence to the General Agreement during the period of provisional application, during which any contracting party was free to withdraw on 60 days notice. If the Swiss Government decided to accede to the General Agreement but found in practice that such participation raised insuperable difficulties for Switzerland, it could in fact withdraw at very short notice.

5. The replies of the Swiss representative to these questions were as follows:-

- (a) affirmative;
- (b) it would not be possible to complete the preparation of the revised Swiss customs tariff before next autumn and consequently the new tariff could not be approved by the Swiss Parliament in time to serve as a basis for negotiation at Torquay. At a later date, in response to a further enquiry, the Swiss Government indicated that it could envisage negotiating on the basis of the existing tariff which dates back to 8 June, 1921, considered jointly with the negotiating tariff of 5 November, 1925;
- (c) the possibility of withdrawal at short notice did not present an acceptable solution to Switzerland's difficulties in considering accession to the General Agreement. The Swiss representative pointed out that such a solution might be envisaged if it were uncertain whether the difficulties envisaged by Switzerland would or would not in practice arise. In fact, however, the view of the Swiss authorities was that such difficulties would inevitably arise as the result of accession by Switzerland to the General Agreement and therefore the possibility of withdrawal provided no solution.

6. In the light of the reply to question (b) the Working Party considered that there appeared to be some possibility of solving the technical difficulties affecting Switzerland's participation in the negotiations. The outcome of this question would be dependent upon information concerning the negotiating tariff of 1925 referred to in the answer to question (b). The Working Party therefore resumed its discussion of possible solutions to the special difficulties to which Switzerland had drawn attention in its reply to the invitation from the Contracting Parties. In the course of the discussion two possible alternatives were considered. First, that the accession of Switzerland might be accompanied by a reservation which would be accepted by all the contracting parties. This suggestion was unacceptable to the members of the Working Party in that such a reservation would amount to a broad exception to the provisions of the General Agreement which would undermine its whole structure. Second, a

declaration by the Contracting Parties that in the event that, owing to the special circumstances set out in the report of Sub-Committee G of the Third Committee of the Havana Conference, Switzerland encountered serious economic difficulties which could not be resolved by direct consultation between Switzerland and the contracting party or parties concerned, they would, in exercise of the powers contained in Article XXV, authorize Switzerland to suspend the application to the other contracting party or parties concerned of such of the obligation under the General Agreement as the Contracting Parties deemed to be appropriate. As part of this second solution the Contracting Parties would, acting under paragraph 5 (a) (i) of Article XXV, define the Swiss problem as a category of exceptional circumstances to which a simple majority vote would apply. The Working Party agreed that this proposal represented an improvement on the first. After discussion and study, however, it was agreed that this proposal also would not be acceptable. Either it would or it would not be intended as an indication that, if the possible difficulties envisaged by Switzerland did in fact later arise, the Contracting Parties would be prepared to grant a waiver of obligations of the type understood to be desired by Switzerland, i.e. to an extent to which they would not normally be prepared to waive the provisions of GATT; and Switzerland would no doubt wish to know from the outset whether it was in fact intended as such an indication. If it was not, it would appear to be unlikely to be acceptable to the Government of Switzerland as long as they continued to hold their present views on the whole question of Swiss participation; if it was, it would amount to the promise of a substantial derogation from the General Agreement of a character which would undermine its whole structure. It was pointed out that the circumstances requiring the exceptions provided for in the Agreement to countries with balance of payments difficulties would be of a transitional character. It was contemplated that restrictions imposed under those exceptions would therefore be temporary and would be more or less rapidly removed as balance of payments difficulties were progressively resolved. It was, moreover, contemplated in the Agreement that individual contracting parties would overcome their balance of payments difficulties at different times and it was fundamental to the purposes of the General Agreement that a contracting party which had thus emerged from balance of payments difficulties would refrain from retaliation for the application against them of restrictions imposed by other contracting parties which had not yet solved their balance of payments difficulties. To permit a country in such circumstances to resort for bargaining purposes to quantitative restrictions not justified on balance of payments grounds would destroy the meaning of the Agreement. To grant such freedom to Switzerland and to refuse it to other countries which were not in balance of payments difficulties would amount to discrimination in favour of one country which was an entirely unacceptable proposition; and to concede it to countries generally would clearly amount to a fundamental change in the provisions of the General Agreement of a character which contracting parties could not contemplate.

7. The Working Party therefore recommend that the Contracting Parties advise the Government of Switzerland that much as the participation of Switzerland would be welcomed by all the contracting parties, it had not been found possible to suggest any formula which would enable Switzerland to participate and yet be free of those obligations which Switzerland had indicated it could not accept. The Contracting Parties might wish to draw attention to the following considerations: All contracting parties, to a greater or lesser degree, are confronted with difficulties and run certain risks in accepting the obligations of the General Agreement. They accept these risks as justified by the importance of the objectives which they seek to attain through the General Agreement. Moreover, they have confidence in the understanding of the Contracting Parties, in administering the Agreement, to take account of the difficulties of individual countries. In the light of these considerations the Contracting Parties might then draw attention to the provisions of Article XIX, XXIII and XXV of the General Agreement, which provide for exceptional action to deal with special difficulties encountered by contracting parties, and suggest to the Government of Switzerland that it again consider whether the difficulties it envisages could not in fact be dealt with through these provisions within the spirit and framework of the General Agreement. Finally, the Contracting Parties may wish to express the hope that such a conclusion will commend itself to the Swiss Government and that Switzerland would, therefore, be able to adhere to the General Agreement and thus join the Contracting Parties in the pursuit of the objectives of the Agreement, which they believe to be in accord with the liberal traditions of Swiss commercial policy.
