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CONTRACTING PARTIES
Fourth Session

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

DRAFT REPORT

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. All members of the Working Party were of the opinion that the problem presented by possible Swiss participation in the GATT could not be differentiated from their possible participation in the ITO. No solution to this latter problem had been found.

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. 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;

(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.

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

(a) affirmative;

(b) whilst 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 that time by the Swiss Parliament, the Swiss Government would however 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.

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. The Working Party agreed that this proposal represented an improvement on the first. After discussion and study, however, it was agreed that this proposal might also in practice amount to a substantial derogation from the provisions of the General Agreement of a nature which might sooner or later tend to undermine its whole structure. If on the other hand, such

derogation were not intended it was doubtful whether this proposal would actually meet the Swiss position. 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 would hardly desire to contemplate.

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. At the same time the Working Party felt that the Contracting Parties might draw attention to the provisions of Articles 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. In making this suggestion the CONTRACTING PARTIES might also draw attention to the following considerations. The case of Switzerland is not unique. Many contracting parties 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 comprehension and understanding of other contracting parties to take account of the difficulties of individual countries in administering the Agreement.

If the Government of Switzerland continues, however, to feel that such a course is not open to it, it is nevertheless the hope of all the contracting parties that the evolution of the general economic situation in the future will be such as to permit of the adherence of Switzerland to the General Agreement at no distant date.