

GENERAL AGREEMENT ON TARIFFS AND TRADE

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LIMITED B
GATT/TN.2/43
GATT/CPS/6
2 April 1951
ORIGINAL: ENGLISH

TARIFF NEGOTIATIONS

Torquay

CONTRACTING PARTIES

Special Session

REPORT OF THE LEGAL WORKING PARTY

Drafting Changes to the Torquay Protocol and Unfinished Negotiations under Article XXVIII

1. Drafting changes to the Torquay Protocol

The Legal Working Party transmits to the Tariff Negotiations Committee the amended texts of the instruments to embody the results of the tariff negotiations, which are contained in document GATT/TN.2/41 and referred to in the supplementary report (GATT/TN.2/39). If the Tariff Negotiations Committee agrees to the proposed changes, it is recommended that the Contracting Parties be requested to give their formal approval to the amendments.

2. Unfinished Negotiations under Article XXVIII

It was foreseen by the Tariff Negotiations Committee and by the Contracting Parties at their 24th meeting that action by the Tariff Negotiations Committee to amend the Torquay Protocol might be necessary after "reviewing from time to time the progress made in Article XXVIII negotiations".

It is now apparent that certain negotiations under Article XXVIII will not be completed before the close of the Torquay Conference. The Legal Working Party considers that it would be unwise to endeavour at this late stage to meet the difficulty by amendment of the Declaration on the Continued Application of the Schedules to the General Agreement on Tariffs and Trade or of the Torquay Protocol, or to envisage the admission of reservations to the Declaration or to paragraph 6 of the Protocol. Accordingly, it suggests that the Tariff Negotiations Committee should request the Contracting Parties, acting pursuant to Article XXV of the Agreement, to adopt a resolution authorising the contracting parties concerned to pursue negotiations on certain specific items. A draft resolution is attached.

Draft Resolution

WHEREAS the Contracting Parties have drawn up an amendment to Article XXVIII of the General Agreement which will be embodied in the Torquay Protocol to the Agreement and have invited all contracting parties to sign at the conclusion of the Torquay Conference a Declaration by which they would waive their right to invoke prior to January 1, 1954, the provisions of paragraph 1 of Article XXVIII of the General Agreement;

WHEREAS under the Torquay Protocol only those modifications of the Geneva and Annecy Schedules which have been agreed upon or to which no objection has been raised in the course of the Torquay Conference can enter into force without further consultation with the contracting parties concerned or action by the Contracting Parties;

WHEREAS, moreover, it has not been possible to reach an agreement in time to record in the Schedules annexed to the Torquay Protocol the results of the negotiations concerning the modifications of concessions with respect to the products listed in the Annex to this resolution;

The CONTRACTING PARTIES decide, pursuant to Article XXV(5)(a),

1. That notwithstanding signature of the Declaration on the continued application of the Schedules to the G.A.T.T. and of the Torquay Protocol, the governments of France, Cuba and Haiti shall be authorised to pursue the negotiations relating to modifications of concessions with respect to the products which are listed in the annex to this resolution with the contracting party or contracting parties with which each concession was initially negotiated and with the contracting parties which, during the Torquay Conference, have notified that they had a substantial interest in that concession.
2. The contracting parties concerned shall endeavour to reach an agreement on or before 1 July 1951 and to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in the present Agreement.
3. Any modification on which agreement is reached before 1 July 1951 may be made effective by agreement of the negotiating parties, provided that at least thirty days' notice of the date on which the modification or modifications will become effective shall be given to the Executive Secretary.
4. If, prior to 1 July 1951, the negotiations referred to in paragraph 1 above have terminated without agreement having been reached, this fact shall be notified to the CONTRACTING PARTIES and the contracting party seeking the modification shall be free to put it into effect on or after the thirtieth day following such notification.
5. If, by the 1 July 1951, no agreement has been reached on a proposed modification listed in the Annex to this Resolution, this fact shall be notified to the CONTRACTING PARTIES by the contracting party seeking the modification, and that contracting party shall be free to put into effect such modification on or after the thirtieth day following such notification.
6. If a contracting party is substantially affected by a modification made effective under paragraph 4 of this resolution, it will be free, not later than six months after such action is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the contracting party taking such action under 4 and 5 above.

Note: The Annex referred to in the Resolution has been distributed as document SECRET/CP/16.