

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/352/Add.1
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Limited Distribution

CONTRACTING PARTIES

DRAFT PROTOCOL AND DECISION PROVIDING FOR THE ACCESSION OF JAPAN

On 6 April 1955 there was distributed to the contracting parties a draft Protocol providing for the accession of Japan and a draft Decision by the CONTRACTING PARTIES (L/352).

At the Fifth Meeting of the Tariff Negotiations Committee on 19 April certain drafting amendments to the Protocol were adopted by the Committee. No changes were made in the draft Decision.

The draft Protocol, as amended by the Committee, and the draft Decision are annexed to this document. The Committee requests that any contracting party which wishes to comment on these drafts or to make proposals for their further amendment should send such comments or amendments to the secretariat not later than 16 May. If no proposals for amendment are received before that date the Protocol given in Annex I will be open for signature immediately following the conclusion of the tariff negotiations, and the Decision as shown in Annex II will be circulated for approval or disapproval by contracting parties.

ANNEX I

DRAFT PROTOCOL OF TERMS OF ACCESSION BY JAPAN
TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter called "present contracting parties" and the "General Agreement", respectively), and the Government of Japan,

HAVING REGARD^D to the results of the negotiations directed towards the accession of Japan to the General Agreement,

HAVE through their representatives agreed as follows:

1. (a) Upon the entry into force of this Protocol, Japan shall apply provisionally, and subject to the provisions of this Protocol:

- (i) Parts I and III of the General Agreement, and
- (ii) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

(b) The obligations incorporated in paragraph 1 of Article I of the General Agreement by reference to Article III thereof and those incorporated in paragraph 2(b) of Article II by reference to Article VI shall be considered as falling within Part II of the General Agreement for the purpose of this paragraph.

(c) For the purposes of the General Agreement, the schedule contained in Annex B upon its entry into force pursuant to paragraph 10 shall be regarded as a schedule to the General Agreement relating to Japan.

(d) So long as the status of any island referred to in Article 3 of the Treaty of Peace with Japan, of 8 September 1951, remains provisional under the terms of that treaty, the provisions of the General Agreement shall neither apply to such island nor require the modification of such treatment as is presently accorded by Japan to such island.

2. Upon the entry into force of this Protocol pursuant to paragraph 10 hereof, Japan shall become a contracting party as defined in Article XXXII of the General Agreement.

3. Notwithstanding the provisions of paragraph 10, the concessions provided for in the schedule relating to any present contracting party and contained in Annex A to this Protocol shall not enter into force for that contracting party unless notification of the intention to apply these concessions has first been received by the Executive Secretary to the CONTRACTING PARTIES to the General Agreement (hereinafter called "the Executive Secretary") from that contracting party. Such concessions shall thereafter enter into force for that contracting party either on the date on which this Protocol first enters into force pursuant to

paragraph 10 or on the thirtieth day following the day upon which such notification is received by the Executive Secretary, whichever is the later. Upon the entry into force of such concessions the appropriate schedule shall be regarded as a schedule to the General Agreement relating to that contracting party.

4. After the entry into force of this Protocol, Japan, or any present contracting party which has given the notification referred to in paragraph 3, shall be free at any time to withhold or withdraw in whole or in part any concessions provided for in the appropriate schedule contained in Annex A or B to this Protocol, in respect of which Japan or such contracting party determines that it was initially negotiated with a present contracting party which has not given such notification;

Provided that

- (i) the government withholding or withdrawing in whole or in part any such concessions shall give notice to all contracting parties within thirty days after the date of such withholding or withdrawal and, upon request, shall consult with any contracting party having a substantial interest in the product involved; and
- (ii) any concession so withheld or withdrawn shall be applied on and after the thirtieth day following the day upon which the government with which it was initially negotiated gives the notification referred to in paragraph 3.

5. (a) In each case in which Article II of the General Agreement refers to the date of that Agreement, the applicable date in respect of the schedules annexed to this Protocol shall be the date of this Protocol.

(b) In each case in which paragraph 6 of Article V, sub-paragraph 4(d) of Article VII, and sub-paragraph 3(c) of Article X of the General Agreement, refer to the date of that Agreement, the applicable date in respect of Japan shall be 24 March 1948.

(c) In the case of references in paragraph 11 of Article XVIII of the General Agreement to 1 September 1947 and 10 October 1947, the applicable dates in respect of Japan shall be 1 March 1955 and 1 May 1955, respectively.

(d) In the case of the date in paragraph 1 of Article XXVIII of the General Agreement, the applicable date in respect of the schedules annexed to this Protocol shall be 1 January 1958.

6. (a) The provisions of the General Agreement to be applied by Japan shall be those contained in the text annexed to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment as rectified, amended, supplemented, or otherwise modified by such instruments as may have become effective by the day on which this Protocol is signed by Japan.

(b) The signature of this Protocol by Japan shall constitute an acceptance of the rectification, amendments, supplementations or other modifications of the General Agreement provided for in any instruments which have been drawn up by the CONTRACTING PARTIES and opened for acceptance, but which have not become effective at the time this Protocol is signed by Japan, as well as the Declaration of 10 March 1955 on the Continued Application of Schedules to the General Agreement, such acceptance to take effect when Japan becomes a contracting party; Provided that such signature shall not constitute acceptance of the three Protocols of Amendment to the General Agreement or the Agreement on the Organization for Trade Cooperation which were drawn up by the CONTRACTING PARTIES at their Ninth Session.

7. Japan, following signature of this Protocol, shall be free to withdraw its provisional application of the General Agreement and such withdrawal shall take effect on the sixtieth day following the day on which written notice of such withdrawal is received by the Executive Secretary.

8. (a) Japan, after having signed this Protocol and not having given notice of withdrawal under paragraph 7, may, on or after the day on which the General Agreement enters into force pursuant to Article XXVI thereof, accede thereto upon the applicable terms of this Protocol by deposit of an instrument of accession with the Executive Secretary. Such accession shall take effect on the thirtieth day following the day of the deposit of the instrument of accession.

(b) Accession to the General Agreement pursuant to sub-paragraph (a) shall, for the purpose of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 3 of Article XXVI thereof.

9. (a) This Protocol shall be deposited with the Executive Secretary and shall be open for signature at the Headquarters of the CONTRACTING PARTIES in Geneva from a date before 12 June 1955 until 31 December 1955.

(b) The Executive Secretary shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, of a deposit of an instrument of accession under paragraph 8(a) and of each notification or notice under paragraph 3 or 7, to each contracting party and to Japan.

(c) The Secretary General of the United Nations is authorized to register this Protocol in accordance with Article 102 of the Charter of the United Nations.

10. This Protocol shall enter into force on the thirtieth day after:

(a) Japan shall have signed this Protocol, and

(b) favourable votes have been received from two-thirds of the governments which are then contracting parties to a decision for the accession of Japan to the General Agreement under the terms of this Protocol.

11. The date of this Protocol shall be a date after the conclusion of the negotiations and before 12 June 1955.

DONE at Geneva, in a single copy in the English and French languages, both texts authentic, except as otherwise specified in schedules annexed hereto.

A N N E X II

DRAFT DECISION

Decision by the CONTRACTING PARTIES agreeing to the accession of Japan
to the General Agreement on Tariffs and Trade

THE CONTRACTING PARTIES,

HAVING REGARD to the results of the negotiations directed toward the
accession of Japan to the General Agreement on Tariffs and Trade,

DECIDE, in accordance with Article XXXIII of the General Agreement,
as follows:

1. The CONTRACTING PARTIES agree to the accession of the Government
of Japan to the General Agreement on the terms which are provided for in
the relevant Protocol of Terms of Accession of Japan to the General Agreement.
2. Votes by contracting parties on this Decision must be received by
the Chairman of the CONTRACTING PARTIES at Geneva not later than [11 August 1955].
3. This Decision shall constitute a decision of the CONTRACTING PARTIES
taken on [11 August 1955], provided that by that date favourable votes thereon
shall have been received from two-thirds of the governments which are at that
time contracting parties.

