

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/420

11 October 1955

Limited Distribution

Original: English

ACCESSION OF JAPAN

The Invocation of Article XXXV

The following memorandum has been submitted to the Executive Secretary by the Japanese Government for discussion at the Tenth Session:

"1. The application of the Japanese Government for the accession to the General Agreement on Tariffs and Trade was unanimously accepted in August last. The Japanese Government wishes to extend its gratitude to all the contracting parties, especially to those governments which have consistently supported the accession of Japan. On the other hand, the Japanese Government has been deeply disappointed that as many as fourteen contracting parties have invoked Article XXXV of the Agreement. It believes that this unfortunate development is not only a matter of serious concern to the Japanese Government, but also raises problems for the CONTRACTING PARTIES.

"2. As regards the point of view of the Japanese Government, we have stated on various occasions in the past that the only way for Japan to live, lay in finding its rightful place among the community of free trading nations, and that in applying to accede to the General Agreement, Japan was fully prepared to subscribe to the provisions and principles of that Agreement. In Article 12 of the Treaty of Peace with Japan, Japan declared its readiness promptly to enter into negotiations for the conclusion with each of the Allied Powers of treaties or agreements to place their trading, maritime and other commercial relations on a stable and friendly basis, and undertook to accord to each of the Allied Powers, during a period of four years from the first coming into force of the Treaty, the most-favoured-nation treatment in commercial and maritime matters on the basis of reciprocity. The Japanese Government had endeavoured for the last four years to accede to the General Agreement in the belief that to regulate commercial relations within the framework of that Agreement would best conform to the provisions of the Treaty of Peace. However, as it turned out only twenty countries responded favourably to the sincere intention of the Japanese Government, while fourteen others which occupy well over 40 per cent of Japan's trade with the GATT countries have refused to enter into GATT relationships with Japan. We need not stress at this time that it is a serious concern of the Japanese Government that so many countries have resorted to the drastic measure of the invocation of Article XXXV.

"3. Because of the difficulties which the CONTRACTING PARTIES experienced in arranging the necessary negotiations for Japan's accession, the Japanese Government accepted a status of provisional participation for about two years. During this period Japan maintained GATT relationships with twenty-four contracting parties and both Japan and these countries benefited rather than suffered from such relationships. The Japanese Government deeply regrets that some of these twenty-four countries have now refused to continue such relationships with Japan, which development, in the opinion of the Japanese Government, is a retrograde step which cannot be other than harmful to these trading relationships and to international trade in general.

"4. It is the duty of the Japanese Government to assure to the people of Japan the raising of standard of living through the expansion of trade, which can only be attained through mutually beneficial arrangements with countries of the free trading community. It will therefore act upon the spirit and principles of the General Agreement and is prepared to solve difficulties in trade within the framework of that Agreement. If a substantial number of contracting parties, some of which are according the most-favoured-nation treatment in commercial relations to countries not party to the General Agreement, do not respond to the intention of the Japanese Government, it will be placed in a very difficult position in winning continued support of the people for its pursuit of the policy of collaboration with free trading nations.

"5. Apart from these considerations relating particularly to the situation of Japan, the Japanese Government considers that the CONTRACTING PARTIES cannot but view with concern a situation in which fourteen contracting parties reserve the right of unlimited discrimination against another contracting party. It is difficult to see how such a situation could be considered as consistent with the spirit of the General Agreement. It is also a situation which might create difficulties in the administration of the Agreement.

"6. In these circumstances the Japanese Government considers that it would be desirable that at the Tenth Session the CONTRACTING PARTIES should examine the problems which have led the contracting parties concerned to invoke Article XXXV, with a view to working out appropriate safeguards within the framework of the General Agreement and consistent with its basic principles. In fact the Japanese Government has already shown in the past its willingness to accept any arrangement for such purposes provided that it is not discriminatory as against Japan alone. Furthermore, in the working out of any such safeguard the Japanese Government would now be willing to consider sympathetically the incorporation of provisions relating to the responsibility of exporting countries in certain situations of a kind which have given rise to apprehension on the part of certain contracting parties.¹

¹ The report of the Intersessional Committee on the question of safeguards appears in L/76 of 13 February 1953. This report has not been formally considered by the CONTRACTING PARTIES.

"7. The CONTRACTING PARTIES have proved themselves in the past to be capable of solving many difficult problems by way of fair and open discussions. The Japanese Government is therefore confident that the examination of the problem before us by the CONTRACTING PARTIES as a whole should lead to a solution which in the first place would be more commensurate to the somewhat exceptional problems which it understands have given rise to the widespread recourse to Article XXIV, and in the second place enable many - if not all - of the contracting parties concerned to withdraw from recourse to Article XXXV and thus bring about a situation which would do less violence to the basic principles and objectives of the General Agreement."