

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES
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APPLICATION OF GATT TO INTERNATIONAL TRADE IN TELEVISION PROGRAMMES

The following communication has been received from the Government of the United States for inclusion in the provisional agenda for the nineteenth session:

"Informed sources estimate that within about two years, the number of television receiver sets in the free world will number about 100,000,000, of which around half will be located in the United States. The steady increase in the number of television receiver sets and in television broadcasting facilities has led to the recent introduction into international trade of a new commodity-television programme, either recorded on video tape or photographed on film.

"It would appear that at present any restriction on the use of imported television material, which is not equally applied to use of domestic television material, would be contrary to GATT Article III:4. However, various countries do apply such restrictions at the present time, and it would appear that the problems relating to use of imported television material have some similarity to the regulation of the use of foreign cinematographic films.

"There is at present no international consensus of treatment in a systematic manner of the growing national restrictions on the importation and use of television programmes. The main purpose and effect of these restrictions to date has been to limit the importation and exhibition of foreign television programmes. The United States believes therefore that the CONTRACTING PARTIES should make special provision, related to GATT Article IV, for the application of the General Agreement to international trade in television programmes so that exhibition time may be reserved for material of national origin while at the same time fair access may be assured the imported product.

"There are substantial differences between television programmes and cinematographic films in the method of exhibiting. The thousands of motion picture exhibitors throughout the world wish to exhibit the kind of films which will attract the largest audiences. Such films are very often foreign films. Therefore, governments are made aware by their own exhibitors of the commercial advantages of providing substantial proportions of screen time for foreign motion pictures.

"In the case of television programmes, however, in most countries the government owns or controls the television broadcasting facilities, and there are only a very limited number of exhibitors of television programmes. The television programmes are almost always licensed for exhibition in return for a lump sum payment. Thus, the net proceeds for the seller are not fixed as a rental percentage of future box office receipts and consequently do not depend on the subsequently determined popularity of the programme. Rather, the seller's net proceeds depend on the amount of the license fee he is able to negotiate for the programme. Accordingly, it does not make a great deal of difference commercially to exhibitors whether imported or domestic productions are used.

"The net result of these differences between television programmes and cinematographic films has been a tendency for domestic screen quotas to be established at less restrictive levels for cinematographic films than for television programmes. GATT Article IV does not place any limit on the size of a domestic screen quota. Theoretically, such a quota could be maintained at 100 per cent. However, for the reasons mentioned above, there has never been any compelling need for a limit on the size of domestic screen quotas for cinematographic film, but there does appear to be some need to establish criteria to limit the size of domestic screen quotas for television programmes.

"The United States suggests that for this purpose the CONTRACTING PARTIES initiate at the nineteenth session study of the possibilities of providing assurance to exporters of television programmes of fair access to the television programme market in other countries."