

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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ACCESSION OF POLAND

Report of the Working Party

1. At its meeting on 10 January 1967 the Council of Representatives decided to establish a Working Party to examine the application of the Government of Poland to accede to the General Agreement under Article XXXIII, taking account of all relevant documents already established in consultations and discussions with the representatives of the Government of Poland and any others that may be put forward, and to submit to the Council recommendations which may include a draft protocol of accession.
2. The Working Party met on 8 and 27 February and on 22 June 1967.
3. The Working Party had before it, to serve as a basis for its discussions, Poland's request for accession of 31 March 1959 (L/967), the statement by the Polish representative in the Council on 16 December 1966 relating to Poland's renewed application for full accession (L/2724), various documents concerning the 1959 Declaration on Relations with Poland and subsequent annual reviews under this Declaration and documents concerning Poland's participation in the Kennedy Round.
4. The Working Party noted that a thorough examination of the Polish foreign trade system had taken place in connexion with the discussions leading to the 1959 Declaration on Relations with Poland. In the subsequent annual reviews under the Declaration the development of trade between Poland and the contracting parties had been examined.
5. During the meeting the Polish delegation replied to, or commented on, various questions put to it by members of the Working Party and, at their request, supplied supplementary information. The Working Party drew up a draft Protocol for the Accession of Poland, which is annexed to this report.

6. The representative of Poland stated that it was the intention of his Government to apply the General Agreement and the provisions of the draft Protocol for the Accession of Poland in its relations with contracting parties and by doing so to contribute to the multilateralization and expansion of trade with countries parties to the General Agreement.

7. The Working Party noted that the foreign trade of Poland was conducted mainly by State enterprises and that the Foreign Trade Plan rather than the customs tariff was the effective instrument of Poland's commercial policy. The present customs tariff was applicable only to a part of imports effected by private persons for their personal use and it was in the nature of a purchase tax rather than a customs tariff. The Working Party agreed that due consideration had to be given to these facts in drawing up the legal instruments relating to Poland's accession to the General Agreement. The representative of Poland stressed that, as a result of possible changes in the economic system of Poland, a different situation might arise enabling Poland to renegotiate its position towards the provisions of the General Agreement.

8. It was agreed that in view of the nature of the foreign trade system of Poland its main concession in the negotiations for its accession to the General Agreement would be commitments relating to an annual increase in the value of its imports from contracting parties.

9. The Working Party was glad to learn from the representative of Poland that his Government would grant to each contracting party, in respect of imports into Poland and purchases by Polish agencies, treatment no less favourable than that accorded to any other country.

10. The representative of Poland recalled that trade between Poland and developing countries had expanded rapidly in the last years. He was confident that Poland's accession to GATT would further encourage this development. He pointed out that Poland would, at its accession, apply Part IV of the General Agreement.

11. In paragraph 5 of the draft Protocol for the Accession of Poland drawn up by the Working Party provision is made for annual consultations with a view to reaching agreement on the Polish import targets for the following year. With respect to these consultations the Working Party agreed that regard should be paid, inter alia, to the trend of Polish exports to contracting parties and to the need to avoid large fluctuations in Polish imports from contracting parties, bearing in mind the need for Poland to create an operational reserve. Regard should also be paid to the development of Poland's earnings of foreign exchange and Poland's balance of payments, regard being had in this last connexion to any imbalance in Poland's invisible trade or capital transactions.

12. The representative of Poland pointed out that situations could arise in which Polish imports, for reasons other than a decline in Poland's exports to other contracting parties, might fall short of the quantities or values foreseen. Such situations would be taken into account in the consultations referred to in paragraphs 5, 6 and 7 of the draft Protocol for the Accession of Poland.
13. With regard to the implementation, where appropriate, of Article VI of the General Agreement with respect to imports from Poland, it was the understanding of the Working Party that the second Supplementary Provision in Annex I to paragraph 1 of Article VI of the General Agreement, relating to imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, would apply. In this connexion it was recognized that a contracting party may use as the normal value for a product imported from Poland the prices which prevail generally in its markets for the same or like products or a value for that product constructed on the basis of the price for a like product originating in another country, so long as the method used for determining normal value in any particular case is appropriate and not unreasonable.
14. The representative of Poland confirmed that his Government would abide by the provisions in Article X of the General Agreement relating to the publication and administration of trade regulations.
15. The Working Party agreed that it would be desirable that a set of provisions be incorporated in the draft Protocol for the Accession of Poland, designed to safeguard the interests of the parties concerned without hampering the development of a multilateral trading system between the CONTRACTING PARTIES and Poland, corresponding to the provisions of Articles XXII and XXIII of the General Agreement but adapted to meet the particular requirements in this case. Paragraph 7 of the draft Protocol was drafted for this purpose.
16. In the negotiation of the percentage increase specified in paragraph 1 of Annex B of the annexed draft Protocol, account was taken inter alia of the increase in Polish exports to contracting parties likely to result from the application by contracting parties to Poland of the provisions of the General Agreement and from tariff reductions and other concessions made by contracting parties.
17. It was pointed out in the Working Party that the Decision by the CONTRACTING PARTIES of 18 November 1960 on arrangements for consultations between contracting parties on restrictive business practices would automatically apply in the trade between Poland and other contracting parties.

13. Having carried out the examination of the foreign trade régime of Poland and in the light of the assurances given by the representative of Poland, the Working Party recommends that the contracting parties apply the General Agreement to their relations with Poland in accordance with the terms and conditions of the draft Protocol for the Accession of Poland drawn up by the Working Party and annexed to this report, on the understanding that a reciprocal and mutually advantageous basis would thereby be afforded for the continuing evolution of trading relations between Poland and the contracting parties. Poland should thus, subject to the satisfactory conclusion of the relevant trade negotiations, be invited to accede to the General Agreement under the provisions of Article XXIII. For this purpose the Working Party has prepared a draft Decision, attached to this report, on the accession of Poland and the draft Protocol referred to above. It is proposed that these texts be approved by the Council when it adopts the report. When the Trade Negotiations between Poland and contracting parties have been formally concluded, the schedule of Poland will be annexed to the Protocol while concessions granted by contracting parties will be contained in the 1967 Geneva Protocol, and the Decision will then be submitted to a vote by contracting parties in accordance with Article XXIII. When the Decision is adopted, the Protocol will be opened for acceptance and Poland will become a contracting party thirty days after it accepts the Protocol.

ANNEX I

DRAFT DECISION ON THE ACCESSION OF POLAND TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The CONTRACTING PARTIES

Having regard to the results of the negotiations directed toward the accession of the Polish People's Republic to the General Agreement on Tariffs and Trade, and having prepared a Protocol for the Accession of the Polish People's Republic,

Decide, in accordance with Article XXIII of the General Agreement that the Polish People's Republic may accede to the General Agreement on the terms set out in the said Protocol.

ANNEX II

DRAFT PROTOCOL FOR THE ACCESSION OF POLAND TO THE
GENERAL AGREEMENT ON TARIFFS AND TRADE

The governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "contracting parties" and "the General Agreement", respectively), the European Economic Community, and the Government of the Polish People's Republic (hereinafter referred to as "Poland"),

HAVING regard to the results of the negotiations directed towards the accession of Poland to the General Agreement,

TAKING NOTE of the requests of Poland for accession dated 31 March 1959 and 15 December 1966 and of the Declaration on Relations between Contracting Parties and Poland dated 9 November 1959,

HAVE through their representatives agreed as follows:

Part I - General

1. Poland shall, upon entry into force of this Protocol pursuant to paragraph 11, become a contracting party to the General Agreement, as defined in Article XXXII thereof, and shall apply to contracting parties provisionally and subject to this Protocol:

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

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

- 2. (a) The provisions of the General Agreement to be applied to contracting parties by Poland shall, except as otherwise provided in this Protocol, be the provisions 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, or otherwise modified by such instruments as may have become at least partially effective on the day on which Poland becomes a contracting party; provided that this does not mean that Poland undertakes to apply a provision of any such instrument prior to the effectiveness of such provision pursuant to the terms of the instrument.

- (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 Poland shall be the date of this Protocol.
3. (a) Contracting parties which on the date of this Protocol apply to imports from Poland prohibitions or quantitative restrictions which are inconsistent with Article XIII of the General Agreement may, notwithstanding these provisions, continue to apply such prohibitions or restrictions to their imports from Poland provided that the discriminatory element in these restrictions is (a) not increased and (b) progressively relaxed as far as the quantities or values of permitted imports of Polish origin are concerned so that at the expiry of the transitional period the length of which will be determined in accordance with (c) below, any inconsistency with the provisions of Article XIII has thus been eliminated.

- (b) The CONTRACTING PARTIES shall in the course of the annual consultations provided for in paragraph 5 below review measures taken by contracting parties pursuant to the provisions of this paragraph, and make such recommendations as they consider appropriate.
- (c) During the course of the third annual consultation provided for in paragraph 5 below, the CONTRACTING PARTIES shall, in the light of all relevant circumstances, consider the establishment of a date for the termination of the transitional period referred to in (a) above. If no such date is fixed during the course of such consultation, this question shall be re-examined at each subsequent annual consultation until a date is fixed.
- (a) If any product is being imported into the territory of a contracting party from the territory of Poland in such increased quantities or under such conditions as to cause or threaten serious injury to domestic producers in the former territory of like or directly competitive products, the provisions of (b) to (e) of this paragraph shall apply.
- (b) The contracting party concerned may request Poland to enter into consultation with it. Any such request shall be notified to the CONTRACTING PARTIES. If, as a result of this consultation, Poland agrees that the situation referred to in (a) above exists, it shall limit exports or take such other action, which may include action with respect to the price at which the exports are sold, as will prevent or remedy the injury.

- (c) Should it not be possible to reach agreement between Poland and the contracting party concerned as a result of consultation under (b), the matter may be referred to the CONTRACTING PARTIES who shall promptly investigate the matter and who may make recommendations to Poland or to the contracting party which initially raised the matter.
- (d) If following action under (b) and (c) above, agreement is still not reached between Poland and the contracting party concerned, the contracting party shall be free to restrict imports from the territory of Poland of the product concerned to the extent and for such time as is necessary to prevent or remedy the injury. Poland shall then be free to deviate from its obligations to the contracting party concerned in respect of substantially equivalent trade.
- (e) In critical circumstances, where delay would cause damage difficult to repair the contracting party affected may take action provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

5. Nine months after the date of this Protocol and annually thereafter the Polish Government shall consult with the CONTRACTING PARTIES with a view to reaching agreement on Polish targets for imports from the territories of the contracting parties as a whole in the following year. These consultations on Polish trade with contracting parties would follow the lines laid down in Annex A to this Protocol.

6. During the course of each consultation provided for in paragraph 5 above, there shall be a review of trade in the preceding twelve-month period between contracting parties and Poland. If it is established in such a review that Polish imports from the territories of contracting parties in this period have, for reasons other than an unexpected decline in Polish exports to the territories of contracting parties, fallen short of the quantities or values provided for, in the relevant annual consultation, the CONTRACTING PARTIES shall consider the situation, and make such recommendations as they consider appropriate.

7. Pursuant to the procedures outlined in paragraph 6, or not less than three months before an annual consultation provided for in paragraph 5, a contracting party may request Poland or Poland may request a contracting party to enter into consultation with it. Any such requests shall be notified to the CONTRACTING PARTIES. Should such consultation not lead to a result satisfactory to the contracting party or to Poland, that contracting party or Poland may suspend the application to Poland or to the contracting party concerned of such concessions or other obligations under the General Agreement as it considers necessary and shall immediately inform the CONTRACTING PARTIES of any such action. At the request of the contracting party, Poland or any other contracting party having a substantial interest in the subject of the consultation, the CONTRACTING PARTIES shall consult with that contracting party and Poland. Should such consultation not lead to an agreement between the contracting party and Poland, and should the contracting party or Poland continue to take action under this paragraph, Poland or the contracting party shall be free, while such action is taken, to suspend to an equivalent extent the application to that contracting party or to Poland of such concessions or other obligations under this Protocol as it may consider necessary.
8. Poland reserves its position with respect to the provisions of paragraph 6 of Article XV of the General Agreement, but undertakes that, so long as Poland is not a member of the International Monetary Fund, it will act in exchange matters in accordance with the intent of the General Agreement and in a manner fully consistent with the principles laid down in the text of the special exchange agreement as adopted by the CONTRACTING PARTIES in their Resolution of 20 June 1949 (BISD, Volume II, pages 17 and 117). Poland shall report to the CONTRACTING PARTIES promptly on any action taken by it which would have been required to be reported to the CONTRACTING PARTIES had Poland signed the special exchange agreement. Poland shall consult with the CONTRACTING PARTIES at any time, subject to thirty days' notice, upon request of any contracting party which considers that Poland has taken exchange action which may have a significant

effect on the application of the provisions of the General Agreement or is inconsistent with the principles and objectives of the special exchange agreement. If, as a result of such consultation, the CONTRACTING PARTIES find that Poland has taken exchange action contrary to the intent of the General Agreement, they may determine that the present reservation shall cease to apply and Poland shall thereafter be bound by the provisions of paragraph 6 of Article XV of the General Agreement.

Part II - Schedule

9. The schedule in Annex B shall, upon the entry into force of this Protocol, become a Schedule to the General Agreement relating to Poland.

Part III - Final Provisions

10. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for signature by Poland until 1 July 1968. It shall also be open for signature by contracting parties and by the European Economic Community.

11. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been signed by Poland.

12. Signature of this Protocol by Poland shall constitute final action to become a party to each of the following instruments:

- (i) Protocol Amending Part I and Articles XXIX and XXX, Geneva, 10 March 1955;
- (ii) Fifth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 3 December 1955;
- (iii) Sixth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 11 April 1957;
- (iv) Seventh Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 30 November 1957;
- (v) Protocol Relating to the Negotiations for the Establishment of New Schedule III - Brazil, Geneva, 31 December 1958;
- (vi) Eighth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 18 February 1959; and
- (vii) Ninth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 17 August 1959.

13. Poland, having become a contracting party to the General Agreement pursuant to paragraph 1 of this Protocol, may accede to the General Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession, with the Director-General. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI or on the thirtieth day following the day of the deposit of the instrument of accession, whichever is the later. Accession to the General Agreement pursuant to this paragraph shall, for the purposes of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 4 of Article XXVI thereof.

14. Poland may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 13 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

15. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, pursuant to paragraph 11, to each contracting party, to the European Economic Community, to Poland and to each government which shall have acceded provisionally to the General Agreement.

16. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this thirtieth day of June one thousand nine hundred and sixty-seven, in a single copy, in the English and French languages, both texts being authentic.

ANNEX A

Plan for Annual Review

The review referred to in paragraph 5 of the Protocol shall cover the following points, among others:

- (i) Polish exports to the territories of contracting parties.
 - (a) The general trend and geographical distribution of Polish exports to the territories of contracting parties. Has there been an unexpected decline or increase in Polish exports?
 - (b) Development of Polish exports of different categories of goods, e.g. agricultural goods, raw materials; semi-manufactured goods, machinery and consumer goods.
 - (c) Action taken by contracting parties under paragraph 3 of the Protocol to remove remaining quantitative restrictions on imports from Poland.
 - (d) Other questions relating to the exports of Poland to the territories of contracting parties in the period under review, including any problems arising of the sort provided for by, or any action taken under paragraph 4 of the Protocol.
- (ii) Polish imports from the territories of contracting parties.
 - (a) The general trend and geographical distribution of Polish imports from the territories of other contracting parties. Did actual Polish imports reach the quantities or values provided for in the period under review? If not, what was the reason for the shortfall in Polish imports?
 - (b) Development of Polish imports of various categories of goods (e.g. agricultural goods, raw materials, semi-manufactured goods, machinery and consumer goods) from the territories of contracting parties in relation to development of Polish imports from other countries.

- (c) Development of Polish imports from the territories of contracting parties in relation to development of the Polish market.
- (d) Provision made by Poland pursuant to paragraph 1 of the Schedule of Concessions of Poland to ensure an annual increase in the total value of its imports from the territories of contracting parties.
- (e) Other questions relating to imports of Poland from the territories of contracting parties.

(iii) Polish balance of payments with contracting parties.

Balance-of-payments situation including situation of Poland's trade and capital transactions.

ANNEX B

Draft Schedule LXV - Poland

1. Subject to paragraph 2 below, Poland shall, with effect from the date of this Protocol, undertake to increase the total value of its imports from the territories of contracting parties by not less than 7 per cent per annum.
2. On 1 January 1971 and thereafter on the date specified in paragraph 1 of article XVIII of the General Agreement Poland may, by negotiation and agreement with the CONTRACTING PARTIES, modify its commitments under paragraph 1 above. Should this negotiation not lead to agreement between Poland and the CONTRACTING PARTIES, Poland, shall, nevertheless, be free to modify this commitment. Contracting parties shall then be free to modify equivalent commitments.