

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Special Distribution

CONTRACTING PARTIES  
Ninth Session

Review Working Party II on Tariffs,  
Schedules and Customs Administration

## PROPOSALS AFFECTING ARTICLES XXVIII AND XVIII A

### Appointment of Sub-Group and Summing-up by the Chairman

The following Sub-Group was appointed to examine the specific proposals affecting Articles XXVIII and XVIII A and to report to the Working Party.

Australia	India
Cuba	Netherlands
Germany	United Kingdom
Greece	United States

Mr. B. N. Adarkar (India) was appointed chairman of the Sub-Group.

The discussions in the Working Party were summarized by the chairman on 26 November as follows:-

### Article XXVIII

During the course of the discussion two principal propositions were put forward, first that the date in paragraph 1 should be removed, thus making available at any time the provisions for renegotiation. This proposal received support from some members. On the other hand, some members would prefer fixed periods of firm validity, as we have had in the past. Some of these would want periods of three years and others periods of two years. If the revised Article provides an initial time-bar of two or three years from the date the revised Agreement enters into force, some members would wish to have a provision to the effect that there should be an opportunity for renegotiations under the procedures of Article XXVIII at the end of each period of firm validity. The United Kingdom suggested that the firm binding of schedules should be suspended during any general round of tariff negotiations.

Two other points in this connexion were discussed: whether a contracting party proposing to modify a concession under the procedures of paragraph 1 should be required to negotiate (instead of merely consult) with contracting parties having a substantial interest in the concession concerned. Secondly, whether the provisions in paragraph 2 for unilateral action in the event of no agreement should be retained and if so, whether provision should be made for arbitration by the CONTRACTING PARTIES.

I believe there is no opposition to the proposal, that if we should decide in favour of fixed periods of firm validity, something like the sympathetic consideration procedures, whereby the CONTRACTING PARTIES can grant authority to a government at any time to renegotiate items in its schedule, should now be incorporated in Article XXVIII. This would be intended to provide a degree of flexibility while not seriously disturbing the basic stability of tariff bindings, which we look upon as the outstanding achievement of the GATT. The degree of flexibility to be provided in these procedures would depend upon the length of the period of binding. Some members, however, consider that, in practice, the procedures established at the Eighth Session and by the Intersessional Committee, have been too slow. No doubt the procedures can be improved so that there will be less delay, and, as in the present Article XXVIII, the approval of only those substantially interested should be required. Further, many members support the proposal that a government which has been authorized to enter into renegotiations but is unable to reach agreement with other contracting parties concerned should have the right to appeal to the CONTRACTING PARTIES to act as arbitrators.

#### Article XVIII A

The Working Party considered whether provision should be made for meeting the special needs of less-developed countries in respect of the renegotiation of bound items, and whether any such provision should be made in Article XXVIII or in Article XVIII. I think it was more or less generally accepted that Section A of Article XVIII should be retained and revised. It seemed to be agreed that whether such special provisions are necessary would depend upon our decision as to the renegotiation facilities to be available to all contracting parties. As for the proposed new Article XVIII A, there appeared to be a broad measure of agreement that some such flexible arrangement should be admitted in order to meet the problems of the less-developed countries. It was suggested by some members that the facilities contemplated should be available for the development of existing industries as well as for the establishment of new industries. (Proposals by Chile (W.9/35) and Greece (W.9/37) were distributed this morning and the document submitted by Brazil will be out tomorrow).

The representative of Brazil has proposed important amendments to the Executive Secretary's draft designed to make it clear that compensatory adjustment would not necessarily be granted in exchange for release from a tariff binding, and several members participated in the discussion of his proposal as to how the equivalence of concessions could be measured. Many members are concerned that the time-limit of 60 days for the negotiations is too long, particularly when allowance is made for the additional time that may be required in the procedure for arbitration. Others felt that the period may be too short. And, as in the Article XXVIII procedures, should a contracting party with a substantial interest be entitled to participate in the negotiations, or only to be consulted?

Finally, we considered a proposal by Australia to make provision for emergency action under the procedures of Article XIX in certain circumstances even though no increase of imports has taken place. But I understand that the Australian delegate agrees that further consideration of his proposal would best take place when the future text of Articles XVIII and XXVIII is taking shape.