

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/195

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Special Distribution

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CONTRACTING PARTIES  
Ninth Session

Review Working Party IV on Organizational  
and Functional Questions

DEFINITIVE APPLICATION

Note by the Chairman

Having considered the discussion on definitive application which has taken place in the Working Party, and having had the opportunity of discussing the matter further informally with members of the Working Party, it appears to me that the difficulties which have been raised could perhaps be met by a procedure along the following lines.

The CONTRACTING PARTIES could at the present Session agree that an acceptance under Article XXVI should be valid even though the contracting party depositing the acceptance attached to it a reservation in respect of Part II similar to that covering existing legislation in the Protocol of Provisional Application. In agreeing to this the CONTRACTING PARTIES could make appropriate provision for the notification of the principal legislative measure in question, for keeping the situation under annual review, and for reviewing the whole question after a time period. I have set out below the text of a decision of the CONTRACTING PARTIES on these lines.

If this approach were to be adopted it would be necessary that the Decision should be concurred in by all contracting parties. In these circumstances it is important to ascertain as soon as possible whether it would be acceptable to all of them and I therefore suggest that this question be taken up again as a matter of urgency in the Working Party, and if the approach suggested is agreed to, submitted by the Working Party to the CONTRACTING PARTIES.

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RESERVATION OF MANDATORY LEGISLATION FOLLOWING

ENTRY INTO FORCE UNDER ARTICLE XXVI

HAVING REGARD to the fact that the contracting parties have hitherto applied the General Agreement provisionally and have been required under such provisional application to apply Part II of the General Agreement only to the fullest extent not inconsistent with existing legislation;

RECOGNIZING the desirability that contracting parties should accept the Agreement definitively under the provisions of Article XXVI at as early a date as possible;

NOTING that it would not be practicable for certain contracting parties to bring their domestic legislation into conformity with Part II of the General Agreement immediately upon accepting it under the provisions of Article XXVI and accordingly that these contracting parties would not be in a position to so accept it unless a transitional period is provided for;

RECOGNIZING the desirability that contracting parties should use their best endeavours to bring such legislation into conformity with the provisions of the General Agreement as soon as practicable;

THE CONTRACTING PARTIES AGREE

(1) that an acceptance pursuant to Article XXVI shall be valid even if accompanied by a reservation to the effect that Part II of the General Agreement will be applied to the fullest extent not inconsistent with internal mandatory legislation which existed on 30 October 1947 or, with regard to a contracting party having acceded to the Agreement under the terms of a Protocol of Accession, on the corresponding date;

(2) that any contracting party attaching such a reservation shall submit as soon as possible after its acceptance of the General Agreement pursuant to Article XXVI a list of the principal legislative provisions covered by such reservation;

(3) that the CONTRACTING PARTIES shall review annually progress made in bringing such legislation into conformity with the General Agreement;

(4) that three years from the entry into force of the General Agreement under Article XXVI the CONTRACTING PARTIES shall review the situation then prevailing with respect to such reservations with a view to assessing the progress achieved towards the full application of the General Agreement by all contracting parties and to make appropriate recommendations.

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Finally, it is suggested that the Working Party report should contain the following statement relating to the notification of legislation under the above Decision:

"As regards the notification of legislation covered by the reservation,, the Working Party considered that it would not be practicable to specify any particular time limit within which such notification must be made. They considered, however, that normally a contracting party making such a reservation would concurrently notify the CONTRACTING PARTIES of the principal legislative measures in question and that if such concurrent notification were not practicable, would do so shortly thereafter."