

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES

Ninth Session

Legal and Drafting Committee

## DRAFTING CHANGES

TO ARTICLES III, IX, VIII, XVI, XVII, XX, VI, ANNEX B  
AND NOTES TO ARTICLES VII, VIII, XVI, XVII, AND VI

For purposes of legal drafting and with no view to change the substance of the text, the Legal and Drafting Committee has made certain changes which are underlined in the texts below. The language drafted by the Working Parties, or as it appears in the original text of the General Agreement, is given within square brackets and its deletion is suggested by the Committee. Those Articles not mentioned in this document, nor in addenda hereto, are intended to remain unchanged as they appear in the annexes to the working party reports or in the General Agreement.

1. Article III (former Article II - see L/329, page 17, paragraphs C and D)

### Article III [II]

The text of the second sentence of paragraphs 1(b) and (c) of Article II shall read:

Such products shall also be exempt from all other duties or charges of any kind imposed on or in connexion with importation, including charges of any kind imposed on the international transfer of payments for imports, in excess of those imposed on the date of this Agreement or those directly or mandatorily required to be imposed thereafter by legislation in force in the importing territory [country] on that date.

The text of paragraph 6(a) of Article II shall read:

The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or at the rate of exchange recognized by the Fund at the date of this Agreement. Accordingly, in case the par value accepted or the rate of exchange recognized by the Fund is reduced consistently with the Articles of Agreement of the Fund by more than twenty per centum,

such specific duties and charges and margins of preference may be adjusted to take account of such reduction; Provided that the CONTRACTING PARTIES (i.e., the contracting parties acting jointly as provided for in Article XXV) as provided for in Article XXV concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

2. Note to Article VII (see L/329, page 24, sub-paragraph (vi))

The standard of "fully competitive conditions" permits a contracting party [parties] to exclude from consideration prices involving special discounts limited to exclusive agents.

3. Article IX (see L/329, page 19, paragraph I)

2. The contracting parties recognize that, in adopting and enforcing [implementing] laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum, due regard being had to the necessity of protecting consumers against fraudulent or misleading indications.

4. Article VIII (see L/329, page 18, paragraph H)

Article VIII

Fees and Formalities connected with Importation and Exportation

1. (a) All fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties on or in connexion with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes. [The contracting parties recognize the need for reducing the diversity of such fees and charges.]<sup>1</sup>

(b) The contracting parties recognize the need for reducing the number and diversity<sup>1</sup> of [such] fees and charges [referred to in sub-paragraph (a)].

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1 The Committee recommends that the last sentence of sub-paragraph (a) be placed in a separate sub-paragraph as sub-paragraph (b).

b/c The contracting parties also recognize the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements.

2. A Any contracting party shall, upon request by another contracting party or by the CONTRACTING PARTIES, or by another contracting party, review the operation of its laws and regulations in the light of the provisions of this Article.

5. Notes to Article VIII (see L/329, page 24, sub-paragraphs (viii) and (ix))

The text of the interpretative note, as amended in sub-paragraph (viii) on page 24 of L/329 shall be Note 1.

The paragraph to be inserted after Note 1 referred to above and contained in sub-paragraph (ix) on page 24 of L/329 should read:

Note 2

It would be consistent with paragraph 1 if that on the importation of products from the territory of a any contracting party into the territory of another any other contracting party, the production of certificates of origin should only be required to the extent that is strictly indispensable.

6. Article XVI (see L/334, page 10, paragraphs A and B)

The sub-title preceding paragraph 1 is amended to read:

A - Subsidies in General

Paragraphs 2, 4, 5(a) under Section B are amended as follows:

2. The CONTRACTING PARTIES recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.

4. Furthermore, no contracting party shall grant directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Subject to the provisions of paragraph 5(b) of this Article below, contracting parties shall give effect to the provisions of this paragraph at the earliest practicable date, but not later than 1 January 1958.

5. (a) No contracting party shall extend the scope of any subsidization of the kind described in paragraph 4 of this Article beyond the scope existing on 1 January 1955, by the introduction of new or the extension of existing subsidies.

7. Note to Article XVI (see L/334, pages 11 and 12, paragraph C, and L/334/Corr.1)

Section /Part/ B

[1.] The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.

Section B

Note 1 [2.]

Nothing in this Section /Article/ shall preclude the use by a contracting party of multiple rates of exchange in accordance with the Articles of Agreement of the International Monetary Fund.

Note 2 [3.]

For the purposes /purpose/ of Section B /this Article/, a "primary product" is understood to be any product of farm, forest, or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

Section B, paragraph 3

Note 1 [1.]

The fact that a contracting party has not exported the product in question during the previous representative period /had a previous export history in a product/ would not in itself preclude /deprive/ that contracting party /country/ from establishing its right to obtain a share of the trade in the product concerned.

Note 2 [2.]

A system for the stabilization of the domestic price or of the return to domestic producers of a primary product independently of the movements of export prices, which results at times in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, shall be considered not to involve a subsidy on exports within the meaning of paragraph 3 /of this Article/ if the CONTRACTING PARTIES determine that:

- (b) the system is so operated, or is designed so to operate, either because of the effective regulation of production or otherwise, as not to stimulate exports unduly or otherwise seriously to prejudice the interests of other contracting parties.

Notwithstanding such determination by the CONTRACTING PARTIES, operations under such a system shall be subject to the provisions of paragraph 3 of this Article where they are wholly or partly financed out of government funds in addition to the funds collected from producers in respect of the product concerned.

8. Article XVII (see L/334, page 13, paragraph C))

3. The contracting parties recognize that enterprises of the kind described in paragraph 1(a) of this Article might be operated so as to create serious obstacles to trade; thus negotiations on a reciprocal and mutually advantageous basis designed to limit or reduce such obstacles are of importance to the expansion of international trade.

4. (a) Contracting parties shall notify the CONTRACTING PARTIES of the products which are imported into or exported from their territories by enterprises of the kind described in paragraph 1(a) of this Article.

9. Note to Article XVII (see L/334, page 14, paragraph D)

Paragraph 3

Negotiations which contracting parties agree to conduct under this paragraph may be directed towards the reduction of duties and other charges on imports and exports or towards the conclusion of any other mutually satisfactory arrangement consistent with the provisions of this Agreement. (See paragraph 4 of Article III II and the interpretative note to that paragraph.)

Paragraph 4(b)

The term "import mark-up" in this paragraph shall represent the margin by which the price charged by the import monopoly for the imported product (exclusive of internal taxes within the purview conforming to the provisions of Article IV III, transportation, distribution, and other expenses incident to the purchase, sale or further processing, and a reasonable margin of profit) exceeds the landed cost.

10. Article XX (see L/334, page 14, paragraph B and L/327, page 34)

- (h) undertaken in pursuance of obligations under any inter-governmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES and not disapproved by them or which is itself so submitted and not so disapproved;
- (j) essential to the acquisition or distribution of products in general or local short supply:  Provided/~~provided~~/ that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The CONTRACTING PARTIES shall review the need for this sub-paragraph  paragraph/not later than 30 June 1960.

11. Annex B (see W.9/162)

The list of territories is amended as follows:

France  
French Equatorial Africa (Treaty Basin of the Congo<sup>1</sup> and other territories)  
French West Africa  
Cameroons under French Trusteeship<sup>1</sup>  Mandate  
French Somali Coast and Dependencies  
 French Establishments in India  
French Establishments in Oceania  
French Establishments in the Condominium of the New Hebrides<sup>1</sup>  
 Guadeloupe and Dependencies  
 French Guiana  
Indo-China  
Madagascar and Dependencies  
Morocco (French Zone)  
 Martinique  
New Caledonia and Dependencies  
 Réunion  
Saint-Pierre and Miquelon  
Togo under French Trusteeship<sup>1</sup>  Mandate  
Tunisia

<sup>1</sup> For imports into Metropolitan France and Territories of the French Union.

12. Article VI (see L/334, page 9, paragraph A)

(b) The CONTRACTING PARTIES may waive the requirement of sub-paragraph (a) of this paragraph so as to permit a contracting party to levy an anti-dumping or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party. The CONTRACTING PARTIES shall waive the requirements of sub-paragraph (a) of this paragraph, so as to permit the levying of countervailing duty ~~/duties/~~, in cases in which they find that a subsidy is causing or threatening material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party.

(c) ~~Notwithstanding~~ the provisions of sub-paragraph (a) of this paragraph, ~~in~~ In exceptional circumstances, ~~however,~~ where delay might cause damage which would be difficult to repair, a contracting party may levy a countervailing duty for the purpose referred to in sub-paragraph (b) of this paragraph without the prior approval of the CONTRACTING PARTIES; ~~is~~ Provided ~~/Provided/~~ that such action shall be reported immediately to the CONTRACTING PARTIES and that the countervailing duty shall be withdrawn promptly if the CONTRACTING PARTIES disapprove.

13. Notes to Article VI (see L/334, page 10, paragraph B)

Paragraph 1

Note 1 (the text remains unchanged)

Note 2

It is recognized that, in the case of 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, special difficulties may exist in determining price comparability for the purposes ~~/purpose/~~ of ~~this~~ paragraph 1, and in such cases importing contracting parties ~~/countries/~~ may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.

A new note should be inserted as follows:

Paragraph 6(b)

Waivers under the provisions of this sub-paragraph shall be granted only on application by the contracting party proposing to levy an anti-dumping or countervailing duty, as the case may be.

