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GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session.

Working Party No.2 on Future Tariff Negotiations

Draft Memorandum on Tariff Negotiations

Purpose of the Negotiations

The Contracting Parties to the General Agreement on Tariffs and Trade, at their Second Session in Geneva on August 16 - 24, 1948, resolved to invite the governments which showed their interest in the proposed International Trade Organization, by accepting the invitation to the United Nations Conference on Trade and Employment at Havana, to enter into negotiations with a view to their accession to the Agreement.

In 1947 the Contracting Parties, in their capacity as members of the Preparatory Committee for the Trade and Employment Conference, gave effect to one of the fundamental principles of the draft Charter by carrying out negotiations directed to the substantial reduction of the general level of tariffs and to the elimination of preferences on a reciprocal and mutually advantageous basis. In order that further progress may be made towards expanding the volume of world trade, the Contracting Parties invite the governments referred to above to enter upon similar negotiations with them. Doubtless these countries are enjoying the benefit of most of the tariff reductions negotiated by the Contracting Parties and incorporated

in the Schedules to the General Agreement, and they will welcome the opportunity to obtain these benefits in their own rights and to negotiate for further concessions on the products of most interest to them.

The main part and the final phase of the negotiations will take place in Geneva commencing on 11 April, 1949, but it will be necessary to begin preparations immediately. In order that no time will be lost in the preparatory work, the Secretariat of the Contracting Parties will distribute, not later than 1 September, 1948, a list of the governments which will participate in the negotiations, i.e. the Contracting Parties and the governments which have expressed a desire to accede to the Agreement. An acceding government may negotiate with any Contracting Party and with any other acceding government. There will, generally, be no negotiations between the Contracting Parties themselves, but it may be that by mutual or by general agreement, some of them will take the opportunity to complete certain negotiations which were left unfinished at the Geneva meeting in 1947 and to make certain adjustments found to be necessary in the existing Schedules to the Agreement.

Scope of the Negotiations

It is intended that the countries participating in the negotiations in 1949 will propose for negotiation those of their products of which they individually, or collectively, are, or are likely to be, the principal suppliers to the countries from whom the concessions are asked. In other words, an acceding government will be expected to consider the grant of concessions, as a general rule, on products of which any participating country or any group of participating countries is, or is likely to be, the principal supplier.

And a Contracting Party will, as a general rule, be expected to consider the grant of concessions on products of which any acceding country by itself or together with other participating countries, constitutes, or is likely to constitute, the principal source of supply. This latter rule will not apply to products which already appear in the Schedules to the Agreement, except that it is not meant to prevent an acceding government from asking for concessions on products appearing in the Schedules in which it has a very special interest, in such cases, however, the government submitting the request will be expected to take fully into account the benefits accruing through the General Agreement.

The Havana Charter provides that, in addition to customs tariffs and other charges on imports and exports, certain regulations, quotas, etc. may be negotiated in the manner provided in Article 17. The relevant provisions are contained in Articles 16 (including the Annexes thereto), 18, 19 and 31. Accordingly, requests may be submitted for concessions in respect of matters covered by these provisions in the same way as requests for tariff concessions.

Methods of Negotiation

The negotiations will be conducted in accordance with the rules set forth in paragraph 2 of Article 17 of the Havana Charter.

- (a) The negotiations will be conducted on a selective product-by-product basis which will afford adequate opportunity to take into account the needs of individual countries and individual industries. Participating governments will be free not to grant concessions on particular products and, in the granting of a concession, they may reduce the duty, bind

it at its then existing level, or undertake not to raise it above a specified higher level.

(b) No participating government will be required to grant unilateral concessions, or to grant concessions to other governments without receiving adequate concessions in return. Account shall be taken of the value to any government of obtaining in its own right and by direct obligation the indirect concessions which it enjoys by virtue of the General Agreement.

(c) In negotiations relating to any specific product with respect to which a preference applies,

- (i) when a reduction is negotiated only in the most-favoured-nation rate, such reduction shall operate automatically to reduce or eliminate the margin of preference applicable to that product;
- (ii) when a reduction is negotiated only in the preferential rate, the most-favoured-nation rate shall automatically be reduced to the extent of such reduction;
- (iii) when it is agreed that reductions will be negotiated in both the most-favoured-nation rate and the preferential rate, the reduction in each shall be that agreed by the parties to the negotiations;

(iv) no margin of preference shall be increased.

(d) The binding against increase of low duties or of duty-free treatment will in principle be recognized as a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

(c) Prior international obligations shall not be invoked to frustrate negotiations with respect to preferences, it being understood that agreements which result from such negotiations and which conflict with such obligations shall not require the modification or termination of such obligations except (i) with the consent of the parties to such obligations, or, in the absence of such consent, (ii) by modification or termination of such obligations in accordance with their terms.

Timetable for the Negotiations

(i) At the earliest possible date and in no case later than 15 September 1948, each Contracting Party will send to each acceding government, and each of the latter will send to each participating government, three copies of its customs tariff and of its latest annual trade statistics, and, in addition, the trade statistics of 1936, 1937 or 1938, whichever is considered to be the most representative of prewar trade, and, if possible, average statistics for those three years.

(ii) Not later than 31 October 1948, each government will transmit to each other participating government with which it wishes to enter negotiations a list of the products on which it intends to request tariff concessions. Forty copies of these lists will be required by the Secretariat for distribution to the other participating governments. These will be regarded as provisional lists, but it should be borne in mind that it will not be possible for some governments to enter into negotiations on any products which are not included in these first lists. When compiling its list of products each

participating government should take into account the products on which concessions have already been accorded in the Schedules to the Agreement.

(iii) By 1 January 1949, each government will transmit to each other participating government with which it wishes to negotiate a list of the precise concessions requested. Forty copies of these lists also will be required by the Secretariat for distribution to the participating governments.

(iv) On 11 April, 1949, - that is, on the first day of the meeting in Geneva - each government will make known to all participating governments the tariff concessions which it is prepared to offer to each government from which a request for concessions was received.

It will be understood that any two participating governments may arrange between themselves to conduct preliminary bilateral talks in advance of the multilateral negotiations in Geneva. In that event the exchange of requests and offers may be arranged to take place at earlier dates than those envisaged above, but the concessions offered will not be disclosed to other governments until the opening of the Geneva meeting.

Procedures at Geneva

When the concessions offered by all participating governments have been exchanged and distributed, negotiations between pairs of delegations will begin. At this stage, as in the distribution of lists of requests, arrangements will be made for the strict preservation of secrecy for all confidential material.

To follow the successful procedure adopted in 1947, the participating governments may decide to establish a "Tariff Negotiations Working Party", which will call for reports from time to time to enable it to ascertain the progress of the negotiations and which will make recommendations on questions of procedure and other matters connected with the conduct of the negotiations and which will also prepare the legal instruments to be signed at the conclusion of the proceedings.

As each negotiation is concluded, lists of concessions exchange will be conveyed to the Secretariat and to all other delegations. These results will be subject to modification in the light of the results of other negotiations.

When all the negotiations are completed the concessions will be prepared as an annex to the Agreement. The accession of governments, not previously Contracting Parties, will be effected by two instruments: first, by a Protocol to be concluded by the Contracting Parties, which will serve to incorporate the additional Schedules and any necessary modifications of the existing Schedules, and a Protocol to be concluded by the acceding governments under which they will agree to become contracting parties.

