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GENERAL AGREEMENT ON TARIFFS AND TRADE

Contracting Parties

Second Session

Working Party 2 on Tariff Negotiations

Draft Report for Submission to the Contracting Parties

The Working Party on Tariff Negotiations was appointed at the third meeting of the Second Session of the Contracting Parties on 17 August 1948.

The Working Party held five meetings under the Chairmanship of Mr. B.N. ADARKAR, the representative of India. All the members of the Working Party namely, the representatives of Belgium, Brazil, France, Lebanon, South Africa, United Kingdom and United States, participated in the deliberations and, by invitation, the representatives of other contracting parties and several observers also took part in the discussions.

The Working Party was instructed to study the question of the scheduling of future tariff negotiations and to report on the procedures to be followed. Subsequently, however, two further questions were referred to the Working Party, namely the requests of Pakistan and Cuba for the renegotiation of certain items in Schedules to the General Agreement. Consequently, this report will be composed of three parts dealing respectively with the three questions named.

A. Tariff Negotiations

The Working Party examined the problem of the scheduling of tariff negotiations in the light of the discussion at the third meeting of the Contracting Parties (GATT/CP.2/SR.3) in the expectation that about ten governments will wish to participate with a view to acceding to the General Agreement. It would appear from the documents that have been circulated (GATT/CP.2/2 and GATT/CP.2/13 and 13/Add.1 and 2) that the following countries will wish to negotiate: Denmark, Dominican Republic, Finland, Greece, Haiti, Italy, Uruguay and possibly Colombia, Sweden and Turkey.

The representatives of Australia and the Netherlands and the observers for Finland, Italy, and Sweden should be particularly mentioned for the assistance they rendered to the Working Party during their discussions of this question.

The main task undertaken by the Working Party was the preparation of a memorandum to be issued by the contracting parties for the guidance of the governments wishing to accede to the Agreement and of others which have not replied definitely to the invitation issued by the Chairman of the Contracting Parties. The memorandum recommended by the Working Party is given as an Annex to this Report. It is based upon the decisions of the Contracting Parties at their third meeting that the purpose of the negotiations will be to secure the accession of other countries to the General Agreement, and to provide an opportunity for minor adjustments of existing Schedules and for the completion of unfinished talks begun at Geneva in 1947, and, further, that the main negotiations should be conducted at a multilateral meeting to be held in Geneva in the early part of 1949, although it would be understood that preparatory work could be carried out bilaterally in advance.

Section I of the draft memorandum sets out the purposes of the negotiations; in Section II the scope of the negotiations is described in terms of the "principal supplier" rule; and the methods of negotiation in Section III are based upon the provisions of paragraph 2 of Article 17 of the Havana Charter. The timetable for the negotiations, which appears in Section III calls for the exchange of copies of customs tariffs and trade statistics by the 15 September, for the submission of preliminary lists of products on which concessions are to be requested by the 31 October, 1948, and for the exchange of final lists of requests for tariff and other concessions by 1 January, 1949. It is proposed that the multilateral meeting will open in Geneva on 11 April 1949. The exchange of offers, and other matters concerning the multilateral stage of the negotiations, are described in Section V.

In Section V of the draft memorandum, which describes the procedures at Geneva, the Working Party has not included a definite recommendation for the incorporation of the results of the negotiations in the General Agreement, since they consider that it is not possible to foresee the circumstances and requirements so long in advance and that, in any case, a decision at this stage on the procedures to be adopted, the exact nature of the instruments to be signed, etc. would serve no useful purpose either for the contracting parties or for the acceding governments to whom the memorandum will be addressed.

The Working Party was informed by the observer for Italy of his Government's desire to participate in the negotiations and of the difficulties that would be encountered in complying with the proposed timetable because of the need

to raise the Italian tariff and the project for a Customs Union with France. The Working Party wishes to record its opinion that these difficulties should not be allowed to prevent Italy's participation provided a satisfactory basis for negotiations can be found.

There is another point to which the Working Party particularly wishes to draw attention. The third paragraph in Section V states that at the conclusion of the Geneva meeting each participating government will be required to supply a consolidated list of all the concessions granted to the other participating governments, and this list is to bear an indication opposite each item of the country with which the concession was initially negotiated. Similar lists were to have been exchanged at the conclusion of the negotiations in 1947, but it appears that many of the Contracting Parties failed to comply with the request which was then made. It is now recommended by the Working Party that steps should be taken by all contracting parties to ensure that each other contracting party has received a consolidated list marked in the manner indicated.

B. The Request of the Government of Pakistan

The first of the two questions subsequently referred to the Working Party (GATT/CP.2/SR.7) was the request of the Government of Pakistan for an opportunity to renegotiate the six items contained in Schedule XV with the countries to whom the concessions had been granted by Pakistan and India in 1947, namely, China, Czechoslovakia, France and the United States. (GATT/CP.2/1) This question has been examined by the Working Party with the assistance of the representatives of China, Czechoslovakia and Pakistan.

The representative of Pakistan explained that the request of his Government had been put forward because of the economic consequences of partition. It had been found that some of the concessions granted by India and Pakistan had been more costly to Pakistan than was foreseen at the time of the negotiations and also some of the concessions obtained from other countries were of less value to Pakistan than had been anticipated. Consequently, the Government of Pakistan sought an opportunity to redress the balance of the concessions exchanged in 1947. The members of the Working Party were unanimous in recognizing Pakistan's case as unique and in their desire to treat the request with sympathy.

In a paper presented to the Working Party the representative of Pakistan proposed that permission should be granted for the withdrawal of the concessions on the six items in return for which the four countries with which the six items had been initially negotiated would be free to withdraw certain concessions granted by them. In response to this proposal, the representative of India stated that his country had also suffered as a result of partition, and he explained that the concessions granted by China, Czechoslovakia, France and the United States, which Pakistan now suggested might be withdrawn, had been granted as much to India as to Pakistan and therefore if the renegotiation requested by Pakistan was to proceed on the basis of this new proposal the Government of India would be vitally interested and would have to make known its objections. In that case the negotiations would almost certainly be lengthy and India and also other interested countries would wish to participate. On the other hand, India would have no objection to an arrangement between Pakistan and the four contracting parties concerned

which provided either for new concessions on one side or the other, while leaving the concessions granted in 1947 unaltered, or for the withdrawal of the six concessions proposed by Pakistan without compensation to the four countries concerned. In this case the negotiations might be concluded in a short time, and, since only the reduction of tariffs would be involved, the consent of the contracting parties might be easily obtained.

The Working Party heard the views of the representatives of a number of countries; France and China were prepared to enter negotiations at an early date but emphasized the importance of their multilateral aspect; Czechoslovakia was also prepared to start immediately in the hope of concluding an arrangement before the end of the Second Session; the United States, on the other hand, could not do more during the Second Session than hold preliminary talks and if the negotiations were to result in changes in the United States tariff the usual procedures of giving public notice, etc. would have to be observed; and Benelux, as well as India was substantially interested in the Pakistan proposals and would wish to participate in the negotiations.

Accordingly, the Working Party decided to recommend the following procedure:

1. The representatives of Pakistan should begin bilateral talks immediately with representatives of the four governments with which the six items had been initially negotiated and should endeavour, before the end of the Second Session, to reach a preliminary understanding on the adjustment to be made.

2. Any preliminary conclusions reached before the end of the Second Session should be made known to the contracting parties so that other governments which found that they were interested could request an opportunity to participate in the latter negotiations.

3. The result of the bilateral negotiations in the ensuing months should be reported to the contracting parties at the opening of the Geneva meeting for examination and approval.

C. The Request of the Government of Cuba

The second question referred to the Working Party on Tariff Negotiations was the first three points in the request of the Government of Cuba (GATT/CP.2/8). In referring this question to the Working Party, the Chairman of the Contracting Parties stated that the matter would first be discussed by the representatives of Cuba and the United States and that they would inform the Working Party when they were ready for the matter to be considered by them. The Working Party has received no report from the representatives of Cuba or the United States, but if the matter is brought to them for attention a further meeting will be held and a supplementary report will be issued.

ANNEX

to the Draft Report of Working Party No.2  
on Future Tariff Negotiations  
Draft Memorandum on Tariff Negotiations

I. Purpose of the Negotiations

The contracting parties to the General Agreement on Tariffs and Trade, at their Second Session in Geneva in August 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. In most cases these countries are enjoying the benefit of the tariff reductions negotiated by the contracting parties and incorporated in the Schedules to the General Agreement. But even so they will welcome the opportunity to obtain these benefits in their own right 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 notify by telegraph, not later than 13 September, 1948, a list of governments which will participate in the next series of negotiations, i.e. the contracting parties and the governments which wish to participate with a view to acceding to the Agreement. An acceding government shall be prepared to 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 and 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.

## II. 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 concessions already granted on the products concerned.

The Havana Charter provides that, in addition to customs tariffs and other charges on imports and exports, certain regulations, quotas, protection afforded through the operations of import and export monopolies, etc. shall be subject to negotiation 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.

### III. 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 concessions already embodied in the schedules to 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.

(e) 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.

IV. 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 other participating government, three copies of its customs tariff and one copy (if possible, three) of its latest annual import trade statistics. In addition, it is requested that every effort should be made to supply the import statistics of 1936, 1937 and/or 1938, whichever is the most representative of prewar trade, and, if possible, average statistics for those three years. Each participating government will advise the participating government concerned and the Secretariat, by telegram, the particulars of the documents despatched and the date and method of despatch.

(ii) The United States Government are required by their statutory procedure to give public notice of all items in their tariff which are to be the subject of negotiations. Not later than 31 October 1948, therefore, each acceding government will transmit to the United States Government, by the most expeditious means available, a list of the products

on which it intends to request concessions from that government. The United States Government will take reciprocal action not later than 31 October 1948. It will not be possible for the United States Government to enter into negotiations on any products which are not included in these first lists. Any other participating government which wishes to exchange preliminary and provisional lists with participating governments other than the United States in advance of the definitive lists provided for in the following paragraph, will notify the Secretariat to that effect not later than the 13th September 1948, and the last date for the transmission of such lists will be the 30 November 1948. It is hoped that exchange of such preliminary lists will not be requested except where it is considered absolutely essential, since many of the acceding governments may find it difficult to prepare a large number of such lists within the time prescribed. Forty copies of the preliminary lists including the lists exchanged between the United States Government and acceding governments will be sent to the Secretariat simultaneously with their transmission to the governments to which they are addressed for distribution to the other participating governments.

(iii) Not later than 1 January 1949, each government will transmit to each other participating government a final list of the tariff and other concessions which it requests from that government. Forty copies of these lists will be sent simultaneously to the Secretariat for distribution to the participating governments. When compiling lists of requests, whether preliminary or definitive, participating governments should not include products which appear in the Schedules

to the Agreement unless they propose to request a concession going beyond those provided in the Schedules.

(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 concessions which it is prepared to offer to each government from which a request for concessions was received. These offers should include indications of the existing and the proposed concession rate of duty on each item.

(v) It will be understood that any two participating governments may arrange between themselves to conduct bilateral talks in advance of the multilateral negotiations in Geneva. In that event the exchange of preliminary requests and offers may be arranged to take place at earlier dates than those envisaged above, but the concessions offered need not be disclosed to other participating governments until the opening of the Geneva meeting. In the event that bilateral talks should be successfully concluded prior to 11 April, the results will be reported to the other participating governments at the opening of the Geneva meeting and will be subject to review and adjustment in accordance with the procedures set forth in the following paragraphs.

#### V. Procedures at Geneva

When the concessions offered by all participating governments have been exchanged and distributed, negotiations between pairs of delegations will begin. The lists of offers may then be altered at any time provided that all alterations are immediately notified to the Secretariat for the information of all participating governments.

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 be responsible for ascertaining 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 prepare the legal instruments to be signed at the conclusion of the proceedings.

As each negotiation is concluded, lists of the concessions to be exchanged will be conveyed to the Secretariat and to all other delegations. These results will be subject to review and adjustment in the light of the results of other negotiations. Each participating government will arrange through the Secretariat for the distribution to each other participating government of a consolidated list of all concessions granted, each such list to indicate the country with which each concession was initially negotiated.

When all the negotiations are completed the concessions will be incorporated in the Agreement, and the accession of governments, not previously contracting parties, will be effected by appropriate instruments.

## VI. General

It is essential for the successful conduct of the forthcoming negotiations that the above time table should be strictly adhered to. It is understood, however, that certain governments (other than contracting parties) may be

unable, for reasons beyond their control, to notify their decisions in regard to participation by 13th September 1948, or to supply the necessary documents by 15th September 1948. Such governments will nevertheless be expected to take the necessary action within a very short time after the dates prescribed and to conform to the remainder of the time-table.

It is important that members do not effect new tariff measures prior to the negotiations which would tend to prejudice the success of the negotiations in achieving progress toward the objective set forth in Article 17 of the Havana Charter, and they should not seek to improve their bargaining position by tariff or other restrictive measures in preparation for the negotiations. In the event of the devaluation of the currency of a participating country, or of a rise in prices, or of a change in the form of tariffs, the effects of such devaluation, or rise in prices, or change in the form of tariffs, will be a matter for consideration at the commencement of the negotiations, in order to determine whether the change, if any, in the incidence of the duties of the country concerned affords a reasonable basis for negotiation.

In a few exceptional cases, a general revision of tariffs prior to the negotiations may be found unavoidable. In making any such revision, the countries concerned should have regard to the principles stated in the preceding paragraph. It is suggested that such countries should notify to the Secretariat, by telegram, not later than 13th September 1948, their decision in regard to participation in the forthcoming negotiations and the latest date by which copies of their existing and revised Customs Tariff will be supplied to other participating governments.



They should also comply with the requirement of the above time table except those relating to copies of the Customs Tariff. Negotiations will take place with such countries if the supply of copies of the revised tariff is not delayed so long as to render such negotiations impracticable and if in the light of the principles stated in the preceding paragraph a generally acceptable basis is found for such negotiations.