116

RESTRICTED

TNB/19
16 June 1958

Limited Distribution

GENERAL AGREEMENT ON TARIFFS AND TRADE

TARIFF NEGOTIATIONS WITH BRAZIL

Tariff Negotiations Committee

ARRANGEMENTS FOR GIVING EFFECT TO THE RESULTS OF THE NEGOTIATIONS WITH BRAZIL

Note by the Secretariat

1. In accordance with paragraphs 3 and 4 of Decision of 16 November 1956, the Brazilian Government and the other negotiating contracting parties have to submit to the CONTRACTING PARTIES a report on the results of the negotiations and on the action taken pursuant to the Decision. They have also to submit to the CONTRACTING PARTIES the new Schedule III, as well as modifications in the schedules of other negotiating contracting parties resulting from such negotiations.

2. On the other hand, the new schedule III, as well as modifications in the schedules of other negotiating contracting parties resulting from the negotiations with Brazil will have to be embodied in a protocol by all contracting parties. As the application of the protocol involves changes in the schedules, which are an integral part of Part I of the Agreement, and as there is no provision in the Agreement which would allow these changes to be made except as amendments to the Agreement, the protocol which provides for these changes has to be accepted by all the contracting parties in accordance with Article XXX. As this procedure will in the light of past experience take a long time to complete, it will be necessary for the CONTRACTING PARTIES by a decision taken under Article XXV paragraph 5, to authorize the Brazilian Government to suspend the application of the concessions contained in Schedule III, and other negotiating contracting parties to suspend the application of certain concessions contained in their existing schedules, in so far as those concessions have been withdrawn or modified as a result of the present negotiations with Brazil. This decision would be operative until the protocol embodying the results of the present negotiations has been accepted by all contracting parties.

3. Finally, the Decision of 16 November 1956 authorizes certain modifications or withdrawals of concessions by countries affected by modifications resulting from the present negotiations. This authority would lapse when the Decision of 16 November 1956 ceases to be operative, that is on 1958, and it will be necessary for the CONTRACTING PARTIES to insert a provision similar to those of paragraph 4 of the Decision referred to in paragraphs 1 and 3 above.

4. It is suggested that the Tariff Negotiations Committee meet on Monday 23 June 1958 at 3 p.m. in the Batiment Electoral for a first reading of the draft protocol and the draft decision which, when approved, should be submitted to

the CONTRACTING PARTIES together with the report referred to in paragraph 3 of the Decision of 16 November 1956. The Tariff Negotiations Committee may wish to make suggestions to the CONTRACTING PARTIES concerning the most appropriate procedure for the submission of the report and the approval of the Decision referred to above.

ANNEX

DRAFT DECISION ON THE RESULT OF NEGOTIATIONS WITH BRAZIL

CONSIDERING that, by a Decision of 16 November 1956, the CONTRACTING PARTIES decided, subject to the terms and conditions laid down in paragraphs 1 and 2 of the said Decision, to waive the provisions of Article II, paragraph 1, of the General Agreement to the extent necessary to permit the Brazilian Government to put into force its new customs tariff and to complete negotiations with other contracting parties with a view to establishing a new schedule of Brazilian tariff concessions, and to authorize other contracting parties, pending the entry into force of the results of such negotiations, to suspend concessions initially negotiated with Brazil,

CONSIDERING that, on , the Brazilian Government and the other negotiating parties have, in accordance with paragraphs 3 and 4 of the said Decision, submitted a report on the result of the negotiations which took place in Geneva from to 1958, as well as the new Schedule III and the modifications provided for in the schedules of other contracting parties as a result of these negotiations and which are embodied in the annexes to the Protocol of 1958 on the replacement of Schedule III - Brazil - to the General Agreement on Tariffs and Trade and the introduction of certain modifications in other schedules;

CONSIDERING FURTHER that the results of negotiations involve amendments to Part I of the General Agreement which, in accordance with the provisions of Article XXX of the General Agreement can become effective only when accepted by all contracting parties;

CONSIDERING FINALLY that, in paragraph 4 of the Decision of 16 November 1956, they had provided for a procedure designed to protect the interests of contracting parties affected by withdrawals or modifications which might result from the negotiations contemplated in paragraph 1 to the said Decision,

I. The CONTRACTING PARTIES, acting pursuant to the provisions of paragraph 5 of Article XXV of the General Agreement

DECIDE

1. that the obligations of Brazil under Article II paragraph 1 of the General Agreement are waived to the extent necessary to permit the Brazilian Government, pending the entry into force of the Protocol referred to above, to suspend the concessions embodied in the existing Schedule III to the General Agreement and to apply the Schedule relating to Brazil which is contained in Annex A to the said Protocol, even though the treatment provided for any product in that Schedule is less favourable than is provided for the same product in the existing Schedule III;

2. that, pending the entry into force of the concessions in the Schedule relating to Brazil and contained in Annex A to the Protocol of 1958, the other contracting parties will be free to suspend concessions initially negotiated with Brazil (subject, as regards contracting parties which have a principal supplying interest or a substantial interest therein, to procedures analogous to those provided for in Article XXVIII), as well as the application to Brazil of those provisions of the General Agreement which give to any contracting party with a principal supplying interest a right to negotiation or consultation with respect to concessions initially negotiated with another contracting party;

3. that, pending the entry into force of the Protocol referred to above, the contracting parties for which schedules have been provided in Annex B to the said Protocol will be free to make effective such schedule, even though the treatment provided for any product in such schedule is less favourable than is provided for the same product in their existing Schedule, and to suspend concessions initially negotiated with Brazil when the appropriate Schedule annexed to the said Protocol provides for their withdrawal; and

4. that any contracting party for which no schedule is annexed to the Protocol referred to above and which is determined by the CONTRACTING PARTIES to have a principal supplying interest or a substantial interest in any concession which would be modified or withdrawn as a result of the negotiations conducted pursuant to the Decision of 16 November 1956 shall be free to withdraw substantially equivalent concessions initially negotiated with the contracting party having modified or withdrawn such a concession, provided that such action is taken not later than six months after such concession has been modified or withdrawn in accordance with the provisions of the Protocol of 1958 referred to above and that the CONTRACTING PARTIES have been duly notified in advance;

[5. if there is any request for the suspension of mutual obligations as contemplated in paragraph 3 of the Decision of 16 November 1956, an additional paragraph would be inserted here],

II. THE CONTRACTING PARTIES INVITE

all contracting parties to accept, as promptly as practicable, the protocol of 1958 so as to ensure the entry into force of the amendments to the Schedules annexed to the General Agreement, in accordance with the provisions of Article XXX of the General Agreement.

PROTOCOL

ON THE REPLACEMENT OF SCHEDULE III - BRAZIL AND THE INTRODUCTION OF CERTAIN MODIFICATIONS IN OTHER SCHEDULES ANNEXED TO THE GENERAL AGREEMENT

The Governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter called the General Agreement)

HAVING REGARD to the result of the negotiations conducted at Geneva from to 1958 in accordance with the procedures laid down in the Decision of 16 November 1956 for the establishment of a new schedule of tariff concessions of Brazil and with other procedures agreed upon by the CONTRACTING PARTIES for the conduct of tariff negotiations;

HAVING REGARD also to the decision approved by the CONTRACTING PARTIES to the General Agreement on the result of the negotiations with Brazil;

HAVE, through their representatives, AGREED as follows :

1. For the purposes of the General Agreement, the schedule contained in Annex A shall be regarded as the schedule to the General Agreement relating to Brazil and shall replace the existing Schedule III.

2. The Schedules of other contracting parties to the General Agreement which are contained in Annex B to this Protocol shall be regarded as schedules to the General Agreement relating to those contracting parties and the existing schedules shall be modified accordingly.

3. Subsequent to the signature of this Protocol by a contracting party for which a schedule is annexed to this Protocol, that schedule shall enter into force on the thirtieth day following the day upon which notification has been received by the Executive Secretary to the General Agreement from that contracting party of its intention to apply its concessions in that schedule, or on such earlier date as may be specified by that contracting party, and the concessions included in that Schedule shall, except as specified therein, be made effective as from that date.

4. Any contracting party which has given the notification referred to in paragraph 3 shall be free at any time to withhold or withdraw in whole or in part any concession provided for in the appropriate schedule annexed to this Protocol in respect of which such contracting party determines that it was initially negotiated with a contracting party which has not given such notification; Provided that

(a) the negotiating contracting party withholding in whole or in part any such concessions shall give notice to the CONTRACTING PARTIES within thirty days after the date of such withholding and, upon request, shall consult with any contracting party having a substantial interest in the product involved;

(b) the negotiating contracting party withdrawing in whole or in part any such concessions shall, before taking such action, give not less than thirty days' notice to the CONTRACTING PARTIES and, upon request, shall consult with any contracting party having a substantial interest in the product involved; and

(c) any concession so withheld or withdrawn shall be applied on and after the thirtieth day following the day upon which the notification referred to in paragraph 2 relating to a contracting party with which the concession was initially negotiated is received by the Executive Secretary.

5. Nothing in this Protocol shall limit in any way the right of any contracting party for which no schedule is annexed to this Protocol and which is affected by the withdrawal of, or a modification in any concession in which it is determined to have a principal supplying interest or a substantial interest to modify its schedule in accordance with the provisions of paragraph 3 of the Decision approved on 1958 by the contracting parties referred to in the Preamble to this Protocol.

6. (a) This Protocol shall be deposited with the Executive Secretary of the CONTRACTING PARTIES to the General Agreement. It shall be opened at the Headquarters of the CONTRACTING PARTIES at Geneva on 1958 for acceptance, by signature or otherwise, by the CONTRACTING PARTIES to the General Agreement.

(b) The Executive Secretary shall promptly furnish a certified copy of this Protocol, and a notification of each signature or acceptance of this Protocol and of each notification referred to in paragraph 3, to each contracting party to the General Agreement.

7. The date of this Protocol shall be 1958. It shall enter into force on the day upon which it will have been accepted by all governments which are then contracting parties to the General Agreement; except that the concessions contained in the schedules annexed to this Protocol shall be effective in accordance with the provisions of paragraph 3 of this Protocol.

DONE at Geneva ....