

RESTRICTED

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ORIGINAL: ENGLISH

PROTOCOL

The Governments of the Kingdom of Belgium, Canada, the Republic of Cuba, the French Republic, The Grand-Duchy of Luxembourg, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are provisionally applying the General Agreement on Tariffs and Trade pursuant to the Protocol of Provisional Application,

HAVING APPROVED the amendment to Article XXIV of the General Agreement on Tariffs and Trade which was drawn up at the First Session of the CONTRACTING PARTIES to that Agreement and which reads as follows:

I. "ARTICLE XXIV

TERRITORIAL APPLICATION - FRONTIER TRAFFIC - CUSTOMS UNIONS AND FREE-TRADE AREAS

"1. The provisions of this Agreement shall apply to the metropolitan customs territories of the contracting parties and to any other customs territories in respect of which this Agreement is being applied under Article XXVI or pursuant to the Protocol of Provisional Application. Each such customs territory shall, exclusively for the purposes of the territorial application of this Agreement be treated as though it were a contracting party; Provided that the provisions of this paragraph shall not be construed to create any rights or obligations as between two or more customs territories in respect of which this Agreement has been accepted by a single contracting party.

"2. For the purposes of this Agreement a customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories.

"3. The provisions of this Agreement shall not be construed to prevent:

- (a) advantages accorded by any contracting party to adjacent countries in order to facilitate frontier traffic;
- (b) advantages accorded to the trade with the Free Territory of Trieste by countries contiguous to that territory, provided that such advantages are not in conflict with the Treaties of Peace arising out of the Second World War.

/s/ The

"4. The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the parties and not to raise barriers to the trade of other contracting parties with such parties.

"5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area;

Provided that:

- (a) with respect to a customs union, or an interim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;
 - (b) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free-trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement, as the case may be; and
 - (c) any interim agreement referred to in sub-paragraphs (a) and (b) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.
- "6. (a) Any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the CONTRACTING PARTIES

/and shall make

and shall make available to them such information regarding the proposed union or area as will enable them to make such reports and recommendations to contracting parties as they may deem appropriate.

(b) If, after having studied the plan and schedule provided for in an interim agreement referred to in paragraph 5 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of sub-paragraph (a), the CONTRACTING PARTIES find that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one, the CONTRACTING PARTIES shall make recommendations to the parties to the agreement. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.

(c) Any substantial change in the plan or schedule referred to in paragraph 2 (c) shall be communicated to the CONTRACTING PARTIES, which may request the contracting parties concerned to consult with them if the change seems likely to jeopardize or delay unduly the formation of the customs union or of the free-trade area.

"7. For the purposes of this Agreement:

(a) A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that:

(i) duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV, XX and XXI) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,

(ii) subject to the provisions of paragraph 8, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union;

(b) A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive /regulations of

regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV, XX and XXI) between such territories are eliminated on substantially all the trade in products originating in the constituent territories.

"8. The preferences referred to in paragraph 2 of Article I shall not be affected by the formation of a customs union or of a free-trade area but may be eliminated or adjusted by means of negotiations with contracting parties affected. This procedure of negotiations with affected contracting parties shall, in particular, apply to the elimination of preferences required to conform with the provisions of paragraph 7 (a) (i) and paragraph 7 (b).

"9. The CONTRACTING PARTIES may by a two-thirds majority approve proposals which do not fully comply with the requirements of paragraphs 4 to 8 inclusive, provided that such proposals lead to the formation of a customs union or a free-trade area in the sense of this Article.

"10. In view of the special circumstances arising out of the establishment as independent states of India and Pakistan, which have long constituted an economic unit, the provisions of this Agreement shall not prevent the two countries from entering into special interim agreements with respect to the trade between them, pending the establishment of their reciprocal trade relations on a definitive basis.

"11. Each contracting party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory."

II. INTERPRETATIVE NOTE TO BE INSERTED IN ANNEX I OF THE
GENERAL AGREEMENT ON TARIFFS AND TRADE:

"ad Article XXIV

Paragraph 5

It is understood that the provisions of Article I would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is re-exported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and the most-favoured-nation rate."

/CONSIDERING that,

CONSIDERING that, in accordance with Article XXX of the General Agreement on Tariffs and Trade, the aforesaid amendment will become effective, in respect of those contracting parties which accept it, upon acceptance by two-thirds of the contracting parties,

AGREE to deposit before June 1, 1948 their instruments of acceptance of the aforesaid amendment with the Secretary-General of the United Nations.

The original of this Protocol shall be deposited with the Secretary-General of the United Nations who is authorized to effect registration thereof.

IN WITNESS WHEREOF the respective representatives duly authorized have signed the present Protocol.

DONE at Havana, in a single copy, in the English and French languages, both texts authentic, this twenty-fourth day of March, 1948.
