

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPORT OF WORKING PARTY 4 ON ARRANGEMENTS FOR TARIFF  
NEGOTIATIONS

PART I

Taking as its point of departure the memorandum submitted to the Contracting Parties by the United States Delegation (GATT/CP.6/2), the Working Party elaborated detailed procedures for tariff negotiations at times other than during general tariff conferences, using as a working document a note prepared by the Executive Secretary (GATT/CP.6/W/5). The procedures thus drawn up and now submitted for adoption by the Contracting Parties are set out in Part II of this Report. The remainder of Part I contains explanatory notes on the procedures and on the model protocols annexed to the procedures.

GENERAL

The Working Party has based the proposed rules for negotiation on the procedures and practices followed at the Geneva, Annecy and Torquay Tariff Conferences. Wherever possible, however, the procedures have been simplified with a view to facilitating negotiations but without compromising the multilateral background which is characteristic of tariff negotiations undertaken within the General Agreement.

The procedures are set out in two parts, one dealing with negotiations with a government not party to the General Agreement but wishing to accede thereto and the other with negotiations between two or more contracting parties wishing to enter into negotiation with each other with a view to incorporating the results of the negotiations into the General Agreement.

Notes relating to the Procedures for Negotiations with a Government wishing to accede to the General Agreement.

Rule 1. The Working Party considered it desirable to fix as early a date as practicable by which an individual contracting party should indicate whether it had any objection to the proposed negotiations for accession and secondly whether it would wish to participate in such negotiations. On the other hand it was recognised that in some cases important decisions of policy were involved which it would be unreasonable to expect to be made in a very short period. Accordingly the Working Party has suggested in the rule that normally contracting parties should give their replies within 30 days, but that an extension of the time limit to 60 days could be allowed at the request of any contracting party.

Rule 2. Normally a request by a government to enter into negotiations with a view to accession to the General Agreement would be considered and acted upon at a Session of the Contracting Parties. This discussion would afford any contracting party which had objections to such a request an opportunity to explain its views and to seek a decision of the Contracting Parties in the light of these explanations and the ensuing discussion in the Contracting Parties. The Working Party felt, however, that it would be undesirable to conclude that a request received when the Contracting Parties were not in session would have to be held over until the next regular Session which might be many months distant. On the other hand, if a particular contracting party raised an objection it was, as pointed out above, prima facie the right of the contracting party to have its objection considered by the Contracting Parties. The rule suggested by the Working Party is a compromise solution to this problem. If such an objection is raised and is supported by two other contracting parties the question would be referred to the next regular Session. On the other hand, to safeguard against unnecessary and unreasonable delays consequent upon such objection the Working Party has provided for the matter to be referred to a special session convened in accordance with the Rules of Procedure at the request of any party which has advised its desire to negotiate with the government requesting to accede. The Working Party recognised that the choice of the number of contracting parties whose support was necessary to secure the referring of an inter-sessional request for accession to a Session of the Contracting Parties was arbitrary. They felt, however, that similar objections could be raised to any other figure that might be chosen and that it was perhaps reasonable to adopt the figure decided upon in that, if any matter is raised before the Contracting Parties and its discussion is moved by one other contracting party and seconded by a third, it would normally be accepted for discussion by the Contracting Parties. To this extent therefore the figure of three contracting parties would appear to be a reasonable suggestion.

### Notes relating to Procedures for Negotiations between two or more Contracting Parties

#### General

It was agreed in the course of discussion of these rules to record in the Report of the Working Party its understanding that there is nothing in the General Agreement which prevents individual contracting parties from negotiating with each other outside the scope of the Agreement. The rules proposed have no relation to such negotiations but are confined in their application to the specific circumstances envisaged in Rule 1, viz. where contracting parties wish to enter into negotiations with a view to the incorporation of the results of such negotiations into the General Agreement. Since the Agreement is a multilateral agreement these procedures take cognisance of the possible interest of other contracting parties in negotiations undertaken between only two contracting parties and also provide rules for more complicated cases which may sometimes in practice arise.

The Working Party recognised that normally negotiations under this heading will prove less complicated than those arising in connection with the accession of a government which is not a contracting party. In view of the

successive rounds of large-scale negotiations which have taken place since 1947 the Working Party considered that further negotiations between contracting parties in the near future might be expected to be of a limited character and unlikely therefore to lead to extensive participation by other contracting parties.

Rule 2. There was some discussion in the Working Party as to whether request lists should be sent to all contracting parties or only to those who, in response to a preliminary enquiry, have expressed an interest in receiving them. It was agreed that it would be more in accord with the procedures and practices hitherto followed to send request lists to all contracting parties. Moreover, in some cases these lists would be essential to enable other contracting parties to decide whether they wished to negotiate with one or more of the parties originally proposing the negotiations, as contemplated in Rule 3.

Rules 3 and 4. It will be seen from these rules that the Working Party felt that there should be considerable flexibility in the arrangements for the negotiations, these being largely a matter for the governments concerned to arrange in direct consultation, subject to the Secretariat being kept informed of the arrangements agreed upon.

#### Notes relating to both sets of Procedures

Tariff Negotiations Committee. In both cases it is suggested that the governments participating in the negotiations could set up a tariff negotiations committee to assist in the management of the negotiations. As regards negotiations between contracting parties, however, this was only envisaged in the exceptional case where a substantial number of contracting parties were involved in the negotiations.

Secretariat Services. The Working Party considered that in any of these negotiations the governments concerned should be entitled to look to the Secretariat for appropriate assistance. It was not considered necessary to refer to this point in the rules since the Working Party regarded it as being within the general functions of the Secretariat to assist in the carrying out of procedures adopted by the Contracting Parties.

#### Giving Effect to the Results of Negotiations

##### A. Negotiations with an acceding government

It is contemplated in the rules (rule 6) that normally the draft decision relating to the accession of the government concerned and the protocol embodying the terms of accession, with the schedules of tariff concessions annexed, would be submitted to the next Session of the Contracting Parties for approval. It was considered, however, desirable to provide for more rapid action where a considerable period would elapse between the conclusion of the negotiations and the next Session of the Contracting Parties. The Working Party has therefore drawn up a model Protocol and Decision under Article XXIII based upon the Ancey and Torquay Protocols and Decisions which, at the request of the participating governments, would be circulated to the

contracting parties by the Secretariat. Upon the receipt of a favourable vote on the decision by two-thirds of the Contracting Parties, the Protocol would be open for signature.

B. Negotiations between contracting parties

In the case of negotiations between contracting parties, the Working Party agreed that the results should be put into effect as agreed between the governments participating in the negotiations. Some members of the Working Party felt, however, that, before the results were put into effect, they should be communicated to all contracting parties who should be given a certain period in which to signify objections in the event that they considered that their interests were adversely affected. Other members of the Working Party felt, however, that since the negotiations could only relate to the reduction of tariff levels the question of objections could not arise since the benefits of all such reductions would by virtue of Article I of the Agreement be extended to all contracting parties. In the event of any incidental or unintended impairment of an advantage which a contracting party at present enjoyed under the Agreement, the appropriate procedure was laid down in Article XXIII of the Agreement. The majority of the Working Party was in agreement with the provisions of Rule 7 as presented in this Report, but the representative of the United Kingdom reserved the position of his delegation.

The Working Party considered the problem of incorporation of the results of such negotiations into the General Agreement. Some members felt that, provided that the terms of the protocol embodying the concessions and providing for their incorporation into the General Agreement were approved by the Contracting Parties, such incorporation would be effective upon signature of the Protocol by the negotiating governments alone. Others felt, however, that since additions to the Schedules to the General Agreement were involved, the Contracting Parties as a whole should be party to the Protocol and should have an opportunity to sign it. The model Protocol annexed to the Rules accordingly, whilst providing that the signatures of the negotiating governments shall be sufficient to bring the schedules of tariff concessions into effect, also gives an opportunity to other contracting parties to sign the Protocol if they so desire.

