

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/76
13 February 1953

Limited Distribution

AD HOC COMMITTEE ON AGENDA AND INTERSESSIONAL BUSINESS

REPORT ON THE ACCESSION OF JAPAN

(Adopted at a meeting of the Committee
in Geneva on 13 February 1953)

1. The Intersessional Committee was asked to consider the conditions and timing under which the application of Japan should be pursued and to report to the CONTRACTING PARTIES on the matters involved in this application.
2. In addressing itself to this task the Committee noted that the CONTRACTING PARTIES had recognized that Japan should take her rightful place in the community of trading nations and, to that end, should be admitted to appropriate international arrangements. As regards the accession of Japan to the General Agreement, the Committee recognized the need of Japan for an increased participation in world trade.
3. Some members considered that it was not necessary to establish any special conditions for the accession of Japan since any problems which might arise from such accession could be met by existing provisions of the Agreement. Certain other members of the Committee, however, while indicating that they did not seek special safeguards against competition arising from a genuine advance in the long-run efficiency of Japanese production, recalled the sudden flooding of certain markets with Japanese manufactures in pre-war years in circumstances which produced violent disruption of trading conditions with serious adverse repercussions for large sectors of production in many countries. They recognized that the conditions of production and export in Japan had changed and, particularly, that the Government of Japan had taken measures designed to prevent the recurrence of the conditions which had given rise to these difficulties. These members pointed out, however, that fears still existed in many quarters that these conditions might recur and consequently there might be danger that contracting parties would hesitate to make further reductions in their tariffs and might even be under pressure to raise existing tariff levels. They suggested, therefore, that it was desirable to ensure that the Agreement provided safeguards to deal with such a situation. It was felt that any safeguards to meet these difficulties should be generally applicable to all contracting parties.
4. The Committee examined the safeguards provided in the Agreement and considered, in particular, whether these safeguards would afford protection to the commercial interests of contracting parties in the event of violent disruption of international trading conditions.

5. First, the Committee examined the provisions of Article VI. It was found that while these might cover part of the problem presented to the Committee, they would not be adequate to deal with all the difficulties which might arise.

6. The Committee then examined the provisions of Article XIX. In this connection certain members stated that in their view the essence of the problem lay in the fact that in the event of violent disruption of trading conditions arising from exports from a particular contracting party, action consistent with the Agreement, including emergency action under Article XIX, would have to be non-discriminatory and would thus have to be applied to the trade of all contracting parties, including those which were in no way responsible for the circumstances requiring redress. It was recognized that extensive resort to such action would not be consistent with the attainment of the objectives of the Agreement and that such action if taken would be harmful to world trade generally. Moreover, Article XIX provides primarily for action by a contracting party whose domestic producers suffer injury and only in very limited circumstances for action by a contracting party which is not itself a producer of the goods in question.

7. The Committee, therefore, proceeded to consider a suggestion that Article XIX might be extended so as to provide a solution for these difficulties. This would involve the addition to paragraph 1 of a new clause providing that if any product was being exported by a contracting party, in such circumstances as to produce serious disruption of trading conditions and to cause or threaten serious injury to a significant sector or sectors of production of one or more contracting parties and if remedial measures could not be taken consistently with sub-paragraph (a) or sub-paragraph (b) of paragraph 1 or if taken consistently with these sub-paragraphs would cause severe damage to the interests of one or more other contracting parties, the contracting party into whose territory the product in question was being imported might suspend the application to any other contracting party or parties from whom the product was being exported of such obligations or concessions under this Agreement as it might deem appropriate. Having regard to the difficulties with which Governments would be confronted if in such exceptional circumstances they were not free to take the emergency action which they felt to be required, certain members considered that paragraphs 2 and 3 of Article XIX embodied the procedures and conditions appropriate to emergency action in the circumstances in mind. Other members, however, saw strong objections to any such extension of Article XIX. They felt that the situation for which safeguards were being sought was one falling within Article XXIII and, in their view, was not likely to develop in such a way as to make it difficult to proceed in accordance with that Article. It should, therefore, be dealt with under the procedures of Article XXIII which provide for relief from obligations with the approval of the CONTRACTING PARTIES. Since, therefore, the Agreement provides in Article XXIII for discriminatory action with the prior approval of the CONTRACTING PARTIES and, as previously stated, there should be no insuperable

difficulties in following the procedures of that Article, they saw no justification for so drastic an amendment as to introduce discrimination into the application of Article XIX.

8. The Committee, therefore, considered Article XXIII which provides for consultations and the suspension of obligations or concessions when benefits accruing under the Agreement are being nullified or impaired, or when the attainment of objectives of the Agreement is being impeded. It appeared to the Committee that violent disruption of trading conditions of the type described, if remedial action consistent with the Agreement would lead to a general raising of tariff levels and other barriers to world trade, would create a situation impeding the attainment of objectives of the Agreement. This would therefore be a situation falling under part (c) of paragraph 1 of Article XXIII. It was considered that, in the event of such a situation arising, contracting parties whose interests were seriously affected would avail themselves of the facilities of Article XXII, but that if consultations under that Article should prove unsuccessful they could thereafter refer the matter to the CONTRACTING PARTIES under paragraph 2 of Article XXIII. Further, the Committee considered which contracting parties might have recourse to Article XXIII in these circumstances. Several possibilities were mentioned. In the draft declaration below, the Committee have provided two alternatives each of which received some measure of support in the Committee.

9. Certain members called attention to the difficulties with which governments might under the procedures appropriate to Article XXIII be confronted, both in allaying present fears and in dealing with a future situation, if, having satisfied themselves that emergency action was necessary and could not effectively be taken without serious damage to third party interests, they were not then free to take the alternative emergency action which they considered in the exceptional circumstances to be necessary. Under the procedures of Article XXIII, they would not have the same freedom to take this alternative action as they would have to take action, subject in the case of action under Article XIX to the procedures there applicable, which would have precisely the damaging effect on third party interests which it was desirable to avoid. While other members of the Committee doubted whether such emergency action would be necessary in the situation envisaged, they felt that even if emergency action should become necessary, the procedures of Article XXIII should meet the situation.

10. It was recognized, however, that there might be circumstances in which the procedures of Article XXIII would be too slow in operation to provide adequate safeguards. The Committee therefore considered the suggestion that provision should be made for emergency action in critical circumstances where delay would cause damage difficult to repair. Under this suggested procedure the question whether critical circumstances existed and whether emergency measures should, therefore, be taken would require a ruling by the CONTRACTING PARTIES. If, however, the CONTRACTING PARTIES did not act promptly in such circumstances the delay thus caused would clearly defeat the purposes of any

emergency action. If therefore the CONTRACTING PARTIES failed to reach decisions within 30 days, at least on the interim measures designed to prevent damage, it should be possible for the contracting party concerned to take provisional defensive measures pending a decision by the CONTRACTING PARTIES.

11. The question was considered whether the emergency procedure discussed in paragraph 10 should be provided for by amendment of the Agreement or by a declaration of the CONTRACTING PARTIES asserting that in certain defined circumstances they would adopt a specified procedure for dealing with cases of the type described in this report which may be referred to them under Article XXIII. The Committee concluded that no amendment of the Agreement would be necessary since what was contemplated was that the CONTRACTING PARTIES would authorize the taking of certain measures in an emergency which they would have authority to authorize in any particular case under paragraph 2 of Article XXIII. The Committee considered that the procedural arrangements required could be introduced by a declaration on the following lines:

" THE CONTRACTING PARTIES DECLARE

- "(a) that according to their interpretation of paragraph 1 of Article XXIII, a situation in which goods are exported by a contracting party in such circumstances as to produce or threaten violent disruption of trading conditions affecting a significant sector or sectors of production of one or more other contracting parties and where no preventive measures consistent with the General Agreement and its objectives can be found which seem likely to be effective, would be deemed to impede the attainment of objectives of the General Agreement;
- "(b) that, accordingly, in such a situation a contracting party, into a territory of which the goods are being imported¹, could have recourse to Article XXIII within the terms of paragraph 1(c) of that Article for the purpose of arriving at a satisfactory adjustment or, alternatively, appropriate relief in accordance with paragraph 2 of that Article; and
- "(c) that, if such a situation is so referred to the CONTRACTING PARTIES and if the CONTRACTING PARTIES, in critical circumstances where delay would cause damage which it would be difficult to repair, fail within 30 days of such reference to reach a final decision on or adjustment of the matter or to authorize appropriate provisional measures to prevent such damage, a contracting party, into a territory of which the goods are being imported¹, may thereafter apply such provisional measures not otherwise permitted under the Agreement as the situation may require pending a final decision or adjustment by the CONTRACTING PARTIES in accordance with Article XXIII."

¹ Alternatively, this phrase might read:

"... a contracting party, into a territory of which the goods are being imported and which is directly affected, ..."

12. In the course of the examination of the provisions of the General Agreement, it was pointed out that the Agreement did not contain any specific provision relating to difficulties which might be created in international trade by the existence of unfair labour conditions. It was suggested that the CONTRACTING PARTIES should specifically declare that the existence of unfair labour conditions, particularly in production for export, would be a situation justifying recourse to Article XXIII. The Committee questioned whether a declaration in these general terms would serve any useful purpose and preferred to leave any specific case for determination under that Article.
13. On the question of the timing of the tariff negotiations the Committee has not felt that it could usefully make suggestions to the CONTRACTING PARTIES at the present time. In this connection, there was some discussion as to the nature of the tariff negotiations. Attention was drawn to a number of related matters in the field of tariffs which will have to be dealt with before the end of this year, including the desirability of holding another round of general negotiations directed towards a further reduction of tariff levels and the question of extending the assured life of the existing concessions under the General Agreement, as well as the legislative requirements affecting the tariff programmes of certain contracting parties. It was pointed out that some contracting parties would wish to take into account the accession of Japan in formulating their policies on these questions.
14. A substantial majority of the Committee felt that the inevitable adjustments in trade which would follow from the accession of Japan to the General Agreement could be more easily made in conditions of expanding world trade which would be facilitated by a further general lowering of tariff barriers involving appropriate contributions by major trading countries. While the linking of these various problems to the negotiations with Japan might imply some delay in the negotiations with that country, it was felt that this would not be substantial and would be more than compensated by the additional advantages to be derived from the wider scope of the general negotiations contemplated. Moreover, from the point of view of the contracting parties and as a practical matter it would be more efficient to deal with all these related tariff issues in a single general tariff conference.
15. The Committee recommends that this report be communicated to the contracting parties with a view to arriving as soon as possible in special session, at decisions as to the conditions under which the accession of Japan should be proceeded with and as to the nature and timing of the tariff negotiations.