

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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REVIEW OF THE GENERAL AGREEMENT

Proposals by the Danish Government

General Note:

1. The Danish Government feels that the proposals of the secretariat (L/189/Add.1) as to the entry into force of amendments and/or definitive application of the Agreement should be accepted. A consequential amendment to Article XXVI, establishing a transitional period, has been proposed.
2. It is felt, therefore, that the articles should be arranged on a more functional pattern. The Danish Government is willing to advance suggestions to that end, but feels that the task might be left to a special working group during the Session, possibly the legal drafting group. The Danish Government would prefer Arabic figures instead of Roman figures.
3. The Danish Government presumes that it will be left to a drafting group to undertake such formal amendments as may be necessitated by changes in the organizational set-up (such as "member" for "contracting party" or "organization" for "CONTRACTING PARTIES" etc.).
4. The Danish Government proposes that Article XXIX be deleted. It is suggested that consequential amendments to other articles be left to drafting groups; accordingly such amendments are not included in the present list of proposed amendments.
5. The Danish Government proposes that the following interpretative note to articles containing the term "primary commodity" be inserted:
"For the purposes of this Agreement, the term 'primary commodity' means any product of farm, forest, fishery or any mineral, in its natural form or having undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade."

Article I

1. Add as a new interpretative note to paragraph 1:

Differentiation by nomenclature or practice should only be based on the intrinsic qualities of the product.

Article I (B)

1. Add as a new article to be inserted between the present Article I and Article II:

1. Each Member shall, subject to procedural arrangements established by the Organization, enter into and carry out negotiations directed to the substantial reduction of the general levels of tariffs and other charges on imports and exports and to the elimination of the preferences referred to in paragraph 2 of Article I.

2. The binding against increase of low duties or of duty-free treatment shall in principle be recognized as a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

Note: See amendments to Article XXV.

Article V

1. Add as a new paragraph:

The Organization may undertake studies, make recommendations and promote international agreement relating to the simplification of customs regulations concerning traffic in transit, the equitable use of facilities required for such transit and other measures designed to promote the objectives of this Article. Members shall co-operate with each other directly and through the Organization to this end.

Article VI

1. Paragraph 4. Amend as follows:

No product of the territory of a Member imported into the territory of any other Member shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from customs duties or indirect taxes actually borne by the like product, or actually borne by the material going into the manufacturing of the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such customs duties and indirect taxes.

2. Add as new paragraphs:

8. The Organization shall work toward the standardization, as far as practicable, of rules for the imposition of dumping and subsidization as well as of procedures for determining and levying of anti-dumping and countervailing duties.

9. The Members shall inform the Organization of any national law or regulation regarding anti-dumping and countervailing duties and of any change in such laws and regulations. They shall report annually to the Organization on any measure or action taken under this Article.

Article VII

1. Add as a new paragraph 2:

2. The Members shall work toward the standardization, as far as practicable, of definitions of value and of procedures for determining the value of products subject to customs duties or other charges or restrictions based upon or regulated in any matter by value. With a view to furthering co-operation to this end, the Organization may study and recommend to Members such bases and methods for determining value for customs purposes as would appear best suited to the needs of commerce and most capable of general adoption.

2. Paragraph 3. Amend as follows:

The value for customs purposes of any imported products should not include the amount of customs duties or any indirect (internal) taxes actually borne by the finished product or actually borne by the material going into the manufacturing of such product

3. Paragraph 4. Add the following sentence:

.....pursuant to Article XV of this Agreement. It shall not differ from such par values by more than one per cent.

Article VIII

1. Add as a new paragraph:

5. The Members shall abolish, not later than 31 December 1956, consular invoices and consular visas for commercial invoices, certificates of origin, manifests, etc.

2. In accordance with instructions from the CONTRACTING PARTIES, the Executive Secretary is at present studying the question of discrimination in connection with transport insurance. If it is found that such discrimination exists to any measurable extent, the Danish Government feels that rules should be introduced into the Agreement to prevent such practices. The right place for such rules might be Article VIII.

Article IX

1. Add as a new paragraph, presumably to be placed between the present paragraphs 4 and 5:

The Members agree to co-operate through the Organization towards the early elimination of unnecessary marking requirements. The Organization may study and recommend to Members measures directed to this end, including the adoption of schedules of general categories of products, in respect of which marking requirements operate to restrict trade to an extent disproportionate to any proper purpose to be served.

Article XI

1. Add as a new paragraph between the present paragraphs 2 and 3:

With regard to import restrictions applied under the provisions of paragraph 2(c):

- (a) such restrictions shall be applied only so long as the governmental measures referred to in paragraph 2(c) are in force, and, when applied to the import of products of which domestic supplies are available during only a part of the year, shall not be applied in such a way as to prevent their import in quantities sufficient to satisfy demand for current consumption purposes during those periods of the year when like domestic products, or domestic products for which the imported product can be directly substituted, are not available;
- (b) any Member intending to introduce restrictions on the importation of any product shall, in order to avoid unnecessary damage to the interests of exporting countries, give notice in writing as far in advance as practicable to the Organization and to Members having a substantial interest in supplying that product, in order to afford such Members adequate opportunity for consultation in accordance with the provisions of paragraphs 2(d) and 4 of Article XIII, before the restrictions enter into force. At the request of the importing Member concerned, the notification and any information disclosed during the consultations shall be kept strictly confidential.

Article XVI

1. Add as a new paragraph 2 (a) - (f) as follows:

- (a) No Member shall grant, directly or indirectly, any subsidy on the export of any product, or establish or maintain any other system, which subsidy or system results in the sale of such product for export at a price lower than the comparable price

charged for the like product to buyers in the domestic market, due allowance being made for differences in the conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

- (b) The exemption of exported products from duties or taxes imposed in respect of like products when consumed domestically, or the remission of such duties or indirect taxes in amounts not in excess of those which have accrued, shall not be deemed to be in conflict with the provisions of paragraph 1. The use of the proceeds of such duties or indirect taxes to make payments to domestic producers in general of those products shall be considered as a case under paragraph 1.
- (c) Members shall give effect to the provisions of this paragraph at the earliest practicable date but not later than 31 December 1955. If any Member considers itself unable to do so in respect of any particular product or products, it shall, at least three months before the expiration of such period, give notice in writing to the Organization, requesting a specific extension of the period. Such notice shall be accompanied by a full analysis of the system in question and the circumstances justifying it. The Organization shall then determine whether the extension requested should be made and, if so, on what terms.
- (d) Notwithstanding the provisions of sub-paragraph (a), any Member may subsidize the exports of any product to the extent and for such time as may be necessary to offset a subsidy granted by a non-Member affecting the Member's exports of the product. However, the Member shall, upon the request of the Organization or of any other Member which considers that its interests are seriously prejudiced by such action, consult with the Organization or with that Member, as appropriate, with a view to reaching a satisfactory adjustment of the matter.
- (e) Subsidies granted to products that are mainly sold to foreign markets are considered to be export subsidies in the sense of this paragraph, even if the subsidization also includes the sale on the home market.
- (f) Any Member which considers that a practice is incompatible with the principles laid down in this paragraph shall be entitled to make a complaint to the Organization which, after investigation, may request the Member Government against whom the complaint is made to withdraw or to modify the measure in question.

2. Add as an interpretative note to paragraph 2 (b):

For the purposes of this paragraph, only customs duties or indirect taxes actually borne by the finished product or actually borne by the material going into the manufacturing of such product shall be taken into account.

Article XVII

1. Delete title and substitute by the following: "State Trading and related matters".
2. Add as new paragraphs 3-9:
 3. If a Member establishes, maintains or authorizes, formally or in effect, a monopoly of the importation or exportation of any product, the Member shall, upon the request of any other Member or Members having a substantial interest in trade with it in the product concerned, negotiate with such other Member or Members subject to all the provisions of this Agreement with respect to tariff negotiations, with the object of achieving:
 - (a) in the case of an export monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly to domestic users of the monopolized product, or designed to assure exports of the monopolized product in adequate quantities at reasonable prices;
 - (b) in the case of an import monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly to domestic producers of the monopolized product, or designed to relax any limitation on imports which is comparable with a limitation made subject to negotiation under other provisions of this Agreement.
 4. In order to satisfy the requirements of paragraph 3(b), the Member establishing, maintaining or authorizing a monopoly shall negotiate:
 - (a) for the establishment of the maximum import duty that may be applied in respect of the product concerned; or
 - (b) for any other mutually satisfactory arrangement consistent with the provisions of this Agreement, if it is evident to the negotiating parties that to negotiate a maximum import duty under sub-paragraph (a) of this paragraph is impracticable or would be ineffective for the achievement of the objectives of paragraph 3; any Member entering into negotiations under this sub-paragraph shall afford to other interested Members an opportunity for consultation.
 5. In any case in which a maximum import duty is not negotiated under paragraph 4 (a), the Member establishing, maintaining or authorizing the import monopoly shall make public, or notify the Organization of, the maximum import duty which it will apply in respect of the product concerned.

6. The import duty negotiated under paragraph 4, or made public or notified to the Organization under paragraph 5, shall represent the maximum margin by which the price charged by the import monopoly for the imported product (exclusive of internal taxes conforming to the provisions of Article III, transportation, distribution and other expenses incident to the purchase; sale of further processing, and a reasonable margin of profit) may exceed the landed cost; provided that regard may be had to average landed costs and selling prices over recent periods; and provided further that, where the product concerned is a primary commodity which is the subject of a domestic price stabilization arrangement, provision may be made for adjustment to take account of wide fluctuations or variations in world prices, subject where a maximum duty has been negotiated to agreement between the countries parties to the negotiations.

7. With regard to any product to which the provisions of this Article apply, the monopoly shall, wherever this principle can be effectively applied and subject to the other provisions of this Agreement, import and offer for sale such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported products, account being taken of any rationing to consumers of the imported and like domestic product which may be in force at that time.

8. In applying the provisions of this Article, due regard shall be had for the fact that some monopolies are established and operated mainly for social, cultural, humanitarian or revenue purposes.

9. This Article shall not limit the use by Members of any form of assistance to domestic producers permitted by other provisions of this Agreement.

3. Add as a new paragraph 10:

"The Members shall submit to the Organization annual reports on their state trading activities."

Article XIX

1. Add as a new paragraph 2:

Action pursuant to paragraph 1 of this Article is permitted only when the quantity of the product imported is equivalent to a considerable part of the domestic production of the like or directly competitive products and the injury caused or threatened to domestic produce is not insignificant to the total economy of the Member.

2. The present paragraph 2 will be paragraph 3(a). Add to this as a new paragraph 3(b):

The obligation suspended or the concession withdrawn or modified should be wholly or partially restored as soon as possible. Accordingly, the Organization may, during the consultation foreseen under 3(a) above, recommend a fixed period of time within which such restoration should take place.

3. The present paragraph 3(a) and (b) will be paragraph 4(a) and (b). Add to this as a new paragraph 4(c):

Any suspension, withdrawal or modification under paragraphs 1(a) and 1(b) must not discriminate against imports from any Member country, and such action should avoid, to the fullest extent possible, injury to other supplying Member countries.

Article XX

1. Delete part II of Article XX.
2. Insert as an interpretative note to Part I (b):

If in the opinion of the Organization, the standards of regulations adopted by a Member under this sub-paragraph have an unduly restrictive effect on trade, the Organization may request the Member to revise the standards or regulations.

Article XXIII

- k. Add as an interpretative note to paragraph 2:

It is understood that the recommendation referred to in paragraph 2 should aim at a positive solution of the matter through the removal of the measure or measures in question or the provision of compensation for the damage suffered.

Article XXV

1. Delete paragraph 5(b), (c) and (d) of this article.

Article XXVI

1. Add as a new paragraph 6:

(a) No Member shall be obliged to apply before 1 January 1958 such provisions of Part II of this Agreement as were inconsistent with its internal mandatory legislation existing on 30 October 1947 or with regard to Members acceding to the Agreement under the Annecy or the Torquay Protocols on 10 October 1949 or 21 April 1951 respectively.

(b) The Members shall, as soon as possible, but in any case within twelve months from the date of the revised Agreement, notify the Organization of their internal mandatory legislation which is inconsistent with the revised Agreement.

(c) In exceptional circumstances, where a Member has not been able to comply with the provisions of sub-paragraph (a) above, such Member shall consult with the Organization with a view to abolishing such internal legislation at the earliest possible date. It shall report annually on the measure taken to that effect.

Article XXVII

1. Amend the last sentence as follows:

The [contracting party] member taking such action shall give notice to [all other contracting parties / the Organization] and upon request consult with the [contracting parties / Members] which have a substantial interest in the product concerned.

Article XXX

1. Add as a new paragraph 2:

Notwithstanding the provisions of paragraph 1, a rectification of an entirely non-substantive character in the schedule of a Member shall take effect upon the expiration of ninety days from the day on which a written proposal for the rectification is received by the Organization for transmission to the Members, provided that within that period of time no objection is lodged to the proposed rectification.

