

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES  
Ninth Session

## SECOND REPORT OF WORKING PARTY ON SCHEDULES

### Transposition of Schedule XXXVII - Turkey

1. At the meeting of the CONTRACTING PARTIES on 1 November 1954, the Working Party was instructed to examine, in the light of the discussion at the Plenary Meeting, the request of the Turkish Government for the transposition into ad valorem duties of the rates of duty provided for in Schedule XXXVII.
2. The adoption of the Brussels nomenclature presents no basic problem so far as schedules to the General Agreement are concerned. At their Fifth Session, the CONTRACTING PARTIES agreed that a contracting party wishing to change the nomenclature of its schedule could resort to the normal rectification procedures. Accordingly, the Turkish Government should furnish copies of the revised nomenclature of its Schedule to the Executive Secretary for distribution to the contracting parties. In the event of no objections being lodged with the Executive Secretary, the changes in the Schedule would be regarded as having the approval of the contracting parties. Legal effect would be given to the modification of the Schedule by incorporation in a protocol. The Turkish delegation has advised that a schedule based on the new nomenclature covering concessions listed in Schedule XXXVII is being prepared and will be distributed to the contracting parties. In the event of an objection being lodged concerning the change in nomenclature of any item, consultations should be held between Turkey and the governments concerned.
3. The Working Party has also examined the proposal to change the specific duties in the Turkish Schedule to ad valorem duties, in cases where such a change is not expressly provided for in the Schedule, in order that the new tariff as regards bound items will conform with the Government's obligations under the General Agreement. A comparison by the secretariat of the proposed ad valorem rates with rates which would have resulted, if the conversion had been carried out on certain other bases which were suggested, has indicated that for a considerable proportion of the items the method employed by the Turkish Government has resulted in lower rates than would have been the case if one of those other bases had been used. The Working Party considered the proposals in relation to the provisions of the Agreement and to the practices of the CONTRACTING PARTIES which deal with the modification of schedules. It was found that there is no provision in the General Agreement which authorizes a contracting party to alter the structure of bound rates of duty from a specific to an ad valorem basis.

4. The obligations of contracting parties are established by the rates of duty appearing in the schedules and any change in the rate such as a change from a specific to an ad valorem duty could in some circumstances adversely affect the value of the concessions to other contracting parties. Consequently, any conversion of specific into ad valorem rates of duty can be made only under some procedure for the modification of concessions. One such procedure is that of Article XXVIII, which was used for this purpose by the Government of Finland during the Torquay negotiations. In the present instance, however, adherence to this procedure would involve a delay of more than six months in view of Turkey's acceptance of the Declaration of 24 October 1953 on the Continued Application of Schedules. But in exceptional circumstances concessions can be modified, during this period of firm binding, under the "sympathetic consideration" procedures agreed upon at the Eighth Session. Under this arrangement a government can apply to the CONTRACTING PARTIES for special authority to enter into negotiations with other contracting parties with a view to the modification of concessions. The Working Party considers that it would be appropriate for the CONTRACTING PARTIES to consider the request for a conversion of rates in the Turkish Schedule as a request under these procedures for sympathetic consideration.

5. The Working Party recognizes the inconvenience which results for the Turkish Government from the application of two different types of customs tariffs and considers that the circumstances of this case are sufficiently exceptional to justify resort to the "sympathetic consideration" procedures. Moreover, it appreciated the scrupulous respect the Turkish Government had shown in this matter for its obligations under the Agreement, and took note of the declaration of the Turkish Government that it is not seeking to grant increased protection against the competition of imported merchandise. Consequently, the Working Party recommends to the CONTRACTING PARTIES that the Government of Turkey be authorized to enter into contact as soon as possible with interested parties so that the negotiations can be carried out during the present Session in a spirit of comprehension.

6. The foregoing recommendation is submitted unanimously by the members of the Working Party with the exception of the representative of Brazil who takes the view that the conversion of specific to ad valorem duties does not affect the value of negotiated concessions and that in most cases nothing more is involved than a simple arithmetic calculation. Except in cases where such a calculation cannot be made, it is his opinion that such conversions are merely a matter of form and should not require special authority. The representative of Greece, although not a member of the Working Party, stated that in the view of his Government the only objective of any negotiations that might be held should be to satisfy the CONTRACTING PARTIES that the calculations had been correctly made. The representative of Austria, also an observer, pointed out that in his opinion the recommendation which is based on exceptional circumstances could not be considered as a precedent for other proposals relating to the conversion of specific duties into ad valorem duties which might be submitted in future.

7. At the conclusion of the Working Party's deliberations, the Turkish representative requested that the following statement be appended to the report:

"The representative of Turkey took part in the Working Party's discussions. He declared that Turkey's obligations within the context of the General Agreement derived from the incidences of 1948, which was adopted as a reference year at the time of the Torquay negotiations. His Government considered that the consolidation of a specific tariff always implied the consolidation of the incidences. He stated that during the Torquay negotiations those incidences had been taken into account. That was why the Turkish Government, in its desire to observe its contractual engagements and to avoid prejudicing the interests of its partners, had converted its duties on the basis of the 1948 incidences. He affirmed that Article XXVIII of the General Agreement could not be applied in that connection, in view of the compulsory consolidation of the schedules until 30 June 1955. He also opposed the application of the "sympathetic consideration" procedure, pointing out that that procedure was not compatible with a request such as that made by his Government. As no provision of the General Agreement provided for the conversion of specific duties into ad valorem duties, he was of the opinion that his Government was fully entitled to transform the specific duties of its Schedule, while respecting the concessions granted. He believed that such conversion was purely a matter of form. He stated, however, that he would transmit the arguments advanced in favour of negotiation during the Working Party's discussions to his Government for consideration."

Points for decision

The recommendation in paragraph 5.