

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Ninth Session

I - FINNISH APPLICATION FOR THE ADJUSTMENT OF SPECIFIC DUTIES IN SCHEDULE XXIV

II - DRAFT FOURTH PROTOCOL OF RECTIFICATIONS AND MODIFICATIONS

Third Report

I. Finnish Application for the Adjustment of Specific Duties in Schedule XXIV

1. The Working Party examined the request of the Finnish Government for the adjustment of specific duties in its schedule XXIV (Annex) as circulated to contracting parties in L/286, MGT/3/55 and MGT/3/55/Corr.1 The request was based on the fact that the Government of Finland had devalued the Markka on 5 July 1949 from 136 to 160 Markka per United States dollar and, on 19 September 1949 had further devalued to 230 Markka per United States dollar. Taking account of the official selling rate of 231 Markka per United States dollar, the devaluations have resulted in a total increase of 69.85 per cent in the number of Markka equivalent to one United States dollar. The representative of the International Monetary Fund was able to confirm that these devaluations had been made consistently with the Articles of Agreement of the International Monetary Fund.
2. The main difficulty confronting the Working Party arose from the fact that the first devaluation occurred after the conclusion of most of the negotiations for Finland's accession. The second devaluation took place after the completion of the negotiations but before the date of the Annex Protocol which is the "date of the Agreement" for Finland. In the circumstances the Working Party could not recommend that Finland proceed under Article II:6(a) as, under the terms of that Article, the specific duties contained in a schedule are expressed at the value of the currency on the "date of the Agreement".
3. The members of the Working Party, however, after examining the circumstances in which the Annex negotiations with Finland took place, felt it could be reasonably assumed that the negotiations of Finland relating to the specific duties bound in Schedule XXIV were based on the value of the Finnish Markka existing before the first devaluation on 5 July 1949. Clearly the best

course for Finland would have been to insert a note in its Annex Schedule to the effect that the specific duties contained in the Schedule were expressed in Markka at the value existing before 5 July 1949. The Schedule contained no such note. The members of the Working Party felt nonetheless that Finland should not be denied the possibility of making the requested adjustments.

4. The Working Party therefore decided that although Article II:6(a) was clearly not applicable, the circumstances of the case were such that the Finnish request should be treated as if that paragraph did apply. The attached draft decision is therefore submitted to the CONTRACTING PARTIES.

5. The attention of the CONTRACTING PARTIES is drawn to the decision which may be required from them under the final paragraph of the draft **Decision** in the event that Finland and any other contracting party claiming impairment should not reach agreement and the CONTRACTING PARTIES are not at the time in session. It is recommended that authority be delegated to the Intersessional Committee to take such a decision if the question should arise after the close of the Ninth Session or more than one month before the opening of the Tenth Session.

II. Draft Fourth Protocol of Rectifications and Modifications

6. In accordance with the decision of the Intersessional Committee of 26 July 1954 (IC/SR.13), a draft Protocol of Rectifications and Modifications was prepared by the secretariat and circulated on 5 October 1954 (L/236). The Intersessional Committee had hoped that all suggested changes in the text of the Schedules would be submitted in time for insertion in the draft so that the final text could be approved and the Protocol opened for signature in the early days of the Session. It soon appeared that some of the objections raised would require time for settlement. Meanwhile, further items were submitted for incorporation in the Protocol.

7. One question could not be solved by the interested parties and was referred to the Working Party. Among the rectifications requested by the Austrian Government were those relating to Items 140 to 144 of the Austrian Tariff which were being made under the authority of the note to these items included in the Austrian Schedule XXXII which granted the Austrian Government freedom to change the specific into ad valorem rates. The Austrian Government, felt that it would not be impairing the value of the concessions if it retained beside the new ad valorem duty the old specific rate as a minimum rate.

8. The Working Party took the view that such changes would constitute modifications of Austria's obligations and that it could not recommend their acceptance as rectifications. Such modifications could only be inserted in a protocol of rectifications and modifications after negotiations authorized by the CONTRACTING PARTIES in accordance with the proper procedures. The Austrian delegation therefore did not further insist on the insertion in the Fourth Protocol of Rectifications and Modifications of the specific minimum rates in Items 140 to 144.

9. The final draft of the Protocol was approved by the Working Party after all requested changes had been submitted to all contracting parties and no further objections had been received. The draft in MGT/15/55 is submitted to the CONTRACTING PARTIES for approval in order that it may be opened for signature before the close of the Session.

DRAFT DECISION

ADJUSTMENT OF SPECIFIC DUTIES IN SCHEDULE XXIV - (FINLAND)

CONSIDERING that the Government of Finland, consistently with the Articles of Agreement of the International Monetary Fund on 5 July 1949, devalued the Finnish Markka from 136 to 160 Markkas per United States dollar and on 19 September 1949, further devalued the Markka to 230 Markkas per United States dollar (when the official selling rate became 231 Markkas), which changes resulted in a total increase of 69.85 per cent in the number of Markkas equivalent to one United States dollar;

CONSIDERING that the first of these devaluations occurred after the commencement of negotiations for Finland's accession and after the conclusion of most of these negotiations, the remainder being completed shortly after; and that the second took place after the completion of these negotiations but before the date of the Annex Protocol, which is the "date of the Agreement" so far as Finland is concerned;

CONSIDERING that the Finnish Government has presented a request to the CONTRACTING PARTIES for the adjustment of specific duties, negotiated at Annex, notifying adjustments proposed to Schedule XXIV; and

CONSIDERING that, in the circumstances described above it may be reasonably assumed that the negotiations for the specific duties included in Schedule XXIV (Annex) were based on the Finnish Markka at the value existing before 5 July 1949, and that in those circumstances the Government of Finland might have, but did not, stipulate by a reservation in Schedule XXIV that the specific duties in the Schedule should be adjusted to take account of the devaluations prior to the date of the Annex Protocol,

The CONTRACTING PARTIES, acting pursuant to paragraph 5(a) of Article XXV of the General Agreement,

DECIDE that, in view of the above exceptional circumstances, the obligations of the Government of Finland under this Agreement shall be waived to the extent necessary to permit that Government to make such adjustments in specific rates of duty as it might have made had paragraph 6(a) of Article II of the General Agreement been applicable to the above devaluations of the Finnish Markka; and

DECIDE, accordingly, that the Government of Finland may give effect to the adjustments notified to the CONTRACTING PARTIES if, within thirty days after the date of this Decision, no contracting party shall have claimed that the adjustments would impair the value of concessions provided for in Schedule XXIV. If, within thirty days of the date of this Decision, any contracting party claims that any particular adjustment would impair the value of concessions provided for in Schedule XXIV, the Government of Finland shall defer such adjustment pending consultation with the contracting party concerned. If, after such consultation, the claim concerning impairment is maintained, the question shall be decided by the CONTRACTING PARTIES.