

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

CONTRACTING PARTIES

PROTOCOL PROVIDING FOR THE ACCESSION OF JAPAN

The negotiations for the accession of Japan are proceeding in accordance with procedures established by the CONTRACTING PARTIES at their Sixth Session and set out in Basic Instruments and Selected Documents, Volume I, page 110.

The circumstances are such that the submission of a protocol of accession to the Tenth Session would involve unreasonable delay and the Tariff Negotiations Committee therefore contemplates proceeding along the lines of the other case provided for in paragraph 6 of the Procedures. The strict application of this procedure would, however, give rise to serious difficulties. It provides inter alia for a protocol of accession being opened for signature only after a vote has been taken on a decision under Article XXXIII agreeing to accession, and provides for a period of sixty days for the recording of votes on that decision. The application of these rules in the present case would have serious consequences. The United States is participating in the present negotiations on the basis of legislation which expires on 12 June 1955. If, therefore, there is to be an assurance that effect can be given to the tariff concessions resulting from the negotiations, it is necessary that an agreement should have been entered into before 12 June 1955 and embodied in a legal instrument signed by the parties thereto. The Tariff Negotiations Committee has therefore sought a solution whereby it would be possible for the participating governments to sign such a protocol at the conclusion of the negotiations. As, however, it is necessary for most participating governments to obtain parliamentary approval to give effect to tariff changes, the signature should not involve an immediate commitment to put the tariff concessions into effect, this being conditional upon a subsequent notification of intention to apply the concession thirty days following such notification.

The Tariff Negotiations Committee has found a precedent for a procedure along these lines in the Annecy Protocol of Accession. That Protocol also incorporated the decision on accession. The Tariff Negotiations Committee feels, however, that in the present case it would be more convenient to separate the decision from the protocol since there may be some contracting parties which are not participating in the negotiations and which would prefer to vote on the decision without being required to sign the protocol. Although no final decision was taken, the general feeling of the Tariff Negotiations Committee at the preliminary examination given to the problem was favourable to this alternative.

Under this formula, the protocol would be opened for signature as soon as possible after completion of the negotiations, thus enabling all participating governments to sign it before 12 June 1955. At the same time, the CONTRACTING PARTIES would be asked, by postal ballot, to take a decision under Article XXXIII for the accession of Japan upon the terms embodied in the protocol.

In order to allow members to give further consideration to the draft, the Tariff Negotiations Committee decided to meet again on 15 April 1955 when they would endeavour to prepare the final text for circulation to all the contracting parties. However, in order to afford the non-participating contracting parties as much time as possible to study the draft and, if they so desire, to offer suggestions, the Committee decided to circulate it without delay in its present form. The Committee will consider the draft again at the meeting of 15 April. When the Committee has finalized the draft it will again be circulated to all contracting parties who will then be afforded a further twenty-one days in which to make suggestions or comments. Thereafter the text will be considered as finally established.

Accordingly, there is hereto attached, for the information of all contracting parties, a draft protocol as it has emerged from the first reading by the Tariff Negotiations Committee, together with a draft decision under Article XXXIII.

A N N E X I

DRAFT PROTOCOL OF TERMS OF ACCESSION BY JAPAN
TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter called "present contracting parties" and the "General Agreement", respectively), and the Government of Japan,

HAVING REGARD to the results of the negotiations directed towards the accession of Japan to the General Agreement,

HAVE through their representatives agreed as follows:

1. (a) Upon the entry into force of this Protocol, Japan shall apply provisionally, and subject to the provisions of this Protocol:

(i) Parts I and III of the General Agreement, and

(ii) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

(b) The obligations incorporated in paragraph 1 of Article I of the General Agreement by reference to Article III thereof and those incorporated in paragraph 2(b) of Article II by reference to Article VI shall be considered as falling within Part II of the General Agreement for the purpose of this paragraph.

(c) For the purposes of the General Agreement, the schedule contained in Annex B upon its entry into force pursuant to paragraph 10 shall be regarded as a schedule to the General Agreement relating to Japan.

(d) A paragraph similar to paragraph 1(b) of the Declaration of 24 October 1953 on the commercial relations between certain contracting parties to the General Agreement and Japan will be inserted here.7

2. Upon the entry into force of this Protocol pursuant to paragraph 10 hereof, Japan shall become a contracting party as defined in Article XXXII of the General Agreement.

3. Notwithstanding the provisions of paragraph 10, the concessions provided for in the schedule relating to any present contracting party and contained in Annex A to this Protocol shall not enter into force for that contracting party unless notification of the intention to apply these concessions has first been received by the Executive Secretary to the CONTRACTING PARTIES to the General Agreement (hereinafter called "the Executive Secretary") from that

contracting party. Such concessions shall thereafter enter into force for that contracting party either on the date on which this Protocol first enters into force pursuant to paragraph 11 or on the thirtieth day following the day upon which such notification is received by the Executive Secretary, whichever is the later. Upon the entry into force of such concessions the appropriate schedule shall be regarded as a schedule to the General Agreement relating to that contracting party.

4. After the entry into force of this Protocol, Japan, or any present contracting party which has given the notification referred to in paragraph 3, shall be free at any time to withhold or withdraw in whole or in part any concessions provided for in the appropriate schedule contained in Annex A or B to this Protocol, in respect of which Japan or such contracting party determines that it was initially negotiated with a present contracting party which has not given such notification;

Provided that

- (i) the government withholding or withdrawing in whole or in part any such concessions shall give notice to all contracting parties within thirty days after the date of such withholding or withdrawal and, upon request, shall consult with any contracting party having a substantial interest in the product involved; and
- (ii) any concession so withheld or withdrawn shall be applied on and after the thirtieth day following the day upon which the government with which it was initially negotiated signs this Protocol.

5. (a) In each case in which Article II of the General Agreement refers to the date of that Agreement, the applicable date in respect of the schedules annexed to this Protocol shall be the date of this Protocol.

(b) In each case in which ~~paragraph 6 of Article V, sub-paragraph 4(d) of Article VII, and sub-paragraph 3(c) of Article X~~ of the General Agreement, refer to the date of that Agreement, the applicable date in respect of Japan shall be 24 March 1948.

(c) In the case of references in paragraph 11 of Article XVIII of the General Agreement to 1 September 1947 and 10 October 1947, the applicable dates in respect of Japan shall be 1 March 1955 and 1 May 1955, respectively.

(d) In the case of the date in paragraph 1 of Article XXVIII of the General Agreement, the applicable date in respect of the schedules annexed to this Protocol shall be 1 January 1958.

6. (a) The provisions of the General Agreement to be applied by Japan shall be those contained in the text annexed to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment as rectified, amended, supplemented, or otherwise modified by such instruments as may have become effective by the day on which this Protocol is signed by Japan.

(b) The signature of this Protocol by Japan shall constitute an acceptance of the rectifications, amendments, supplementations, or other modifications of the General Agreement provided for in any instruments which have been drawn up by the CONTRACTING PARTIES and opened for acceptance, but which have not become effective at the time this Protocol is signed by Japan, such acceptance to take effect when Japan becomes a contracting party; Provided that such signature shall not constitute acceptance of the Protocols of Amendment to the General Agreement which were drawn up by the CONTRACTING PARTIES at their Ninth Session.

7. Japan, following signature of this Protocol, shall be free to withdraw its provisional application of the General Agreement and such withdrawal shall take effect on the sixtieth day following the day on which written notice of such withdrawal is received by the Executive Secretary.

8.¹ (a) Japan, after having signed this Protocol and not having given notice of withdrawal under paragraph 7, may, on or after the day on which the General Agreement enters into force pursuant to Article XXVI thereof, accede thereto upon the applicable terms of this Protocol by deposit of an instrument of accession with the Executive Secretary. Such accession shall take effect on the thirtieth day following the day of the deposit of the instrument of accession.

(b) Accession to the General Agreement pursuant to sub-paragraph (a) shall, for the purpose of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 3 of Article XXVI thereof.

9. (a) The original text of this Protocol shall be deposited with the Executive Secretary and shall be open for signature at the Headquarters of the CONTRACTING PARTIES in Geneva from [a date before 12 June 1955] until 31 December 1955.

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This paragraph is taken from the model Protocol. In the unlikely event that the General Agreement should come definitively into force under Article XXVI before the amendments to Article XXVI drawn up at the Ninth Session have come into force, the paragraph would be necessary in order to make it possible for Japan to accede definitively. The Committee may consider that it is unnecessary to provide in the Protocol for this remote eventuality, and therefore may wish to delete this paragraph.

(b) The Executive Secretary shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, of each deposit of an instrument of accession under paragraph 8(a) and of each notification or notice under paragraph 3 or 7, to each contracting party and to Japan.

(c) The Secretary General of the United Nations is authorized to register this Protocol in accordance with Article 102 of the Charter of the United Nations.

10. This Protocol shall enter into force thirty days after favourable votes have been received from two-thirds of the governments which are then contracting parties to a decision for the accession of Japan to the General Agreement under the terms of this Protocol; Provided, that Japan shall first have signed this Protocol.

11. The date of this Protocol shall be √a date after the conclusion of the negotiations and before 12 June 1955√.

DONE at Geneva, in a single copy in the English and French languages, both texts ~~authentic, except as otherwise specified in schedules annexed~~ hereto.

A N N E X II

DRAFT DECISION¹

Decision by the CONTRACTING PARTIES agreeing to the accession of Japan
to the General Agreement on Tariffs and Trade

THE CONTRACTING PARTIES,

HAVING REGARD to the results of the negotiations directed toward the
accession of Japan to the General Agreement on Tariffs and Trade,

DECIDE, in accordance with Article XXXIII of the General Agreement,
as follows:

1. The CONTRACTING PARTIES agree to the accession of the Government
of Japan to the General Agreement on the terms which are provided for in
the relevant Protocol of Terms of Accession of Japan to the General Agreement.
2. Votes by contracting parties on this Decision must be received by
the Chairman of the CONTRACTING PARTIES at Geneva not later than 11 August 1955.
3. This Decision shall constitute a decision of the CONTRACTING PARTIES
taken on 11 August 1955, provided that by that date favourable votes thereon
shall have been received from two-thirds of the governments which are at that
time contracting parties.

¹ This draft decision will be circulated concurrently with the Protocol of
Terms of Accession and the annexed schedules.

