

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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ACCESSION OF SWITZERLAND

Report of the Working Party

INTRODUCTION

1. In accordance with its terms of reference the Working Party considered the request by the Government of Switzerland for provisional accession to the General Agreement. Taking account of the statements made by representatives at the plenary meeting, the Working Party agreed that the procedure outlined in the Note by the Executive Secretary (W.11/18) offered an appropriate method of solving the particular difficulties which had so far prevented Switzerland from being associated with the work of the contracting parties.

ARTICLE XI: AGRICULTURAL RESTRICTIONS

2. The Working Party addressed itself in the first instance to the reservation which Switzerland wishes to attach to the provisions of Article XI in order to enable Switzerland to maintain restrictions on agricultural imports to the extent necessary to give effect to the Federal Law on Agriculture, the Alcohol Monopoly Law, the Wheat Import Monopoly (in so far as this involves restrictions on imports), and the restrictions on the import of trucks.¹ The representative of Switzerland described in detail the policy governing agricultural imports in Switzerland. He pointed out, moreover, that this reservation would not in any case have the effect of leaving Switzerland a completely free hand in the field of agricultural restrictions since there were certain limitations on measures in this field in view of the rules of the OEEC. Contracting parties not members of the OEEC would, of course, enjoy the benefit of these limitations.

3. The members of the Working Party which are particularly concerned with the export of agricultural products reiterated the difficulties that the proposed arrangement would create for them. Their position was, and must remain, that they could not accept that any country acceding to the General Agreement could secure, in respect of agricultural restrictions, a waiver which in any respect went beyond the Decision of 5 March 1955, that is the so-called "Hard Core" Waiver. The reservation proposed by Switzerland did in fact go beyond this Decision in that it was unlimited in point of time and contained no provisions for the progressive elimination of the restrictions.

¹ A summary of these provisions will be circulated as an addendum to this Report.

4. The representative for Switzerland pointed out that the Swiss authorities had this point fully in mind and it was for this reason that they were not now seeking definitive accession to the General Agreement. If they were to do so they would be under the necessity of requesting a waiver which they recognized that the CONTRACTING PARTIES would not be prepared to admit. It was for this reason that they had limited their request to a provisional accession. Moreover, during this period of provisional accession, they were willing to enter into consultations with the CONTRACTING PARTIES with a view to finding solutions to this and other problems which would be compatible with the basic principles of the General Agreement.

5. The members of the Working Party principally concerned with agricultural exports were aware of the limited nature of the Swiss application, but they felt that there was not sufficient indication of any prospect that within a reasonable period of time it could be expected that Switzerland would be able to accept fully the obligations of the General Agreement, subject only to the Decision of 5 March 1955. They therefore felt that the provisional arrangement would tend to become permanent and thus create a precedent for the association of acceding countries accompanied by a sweeping reservation on the provisions of Article XI.

6. The majority of the Working Party, whilst endorsing the principle that countries should not be permitted to accede to the General Agreement subject to an unlimited waiver in respect of agricultural restrictions, felt that the Swiss proposal was in fact of a limited character and that this would be made clear by the fact that the arrangements would run for a limited period of time. They have also taken into consideration the offer made by Switzerland to enter into consultations with the CONTRACTING PARTIES as soon as the provisional arrangements come into effect, with a view to finding a solution to this particular problem which would be compatible with the General Agreement.

BALANCE OF PAYMENTS PROVISIONS

7. The Working Party then addressed itself to the suggestions made by Switzerland with respect to reservations on the application of the Articles dealing with restrictions imposed for balance-of-payments reasons. In accordance with the statement made in the Plenary Session, the representative of Switzerland proposed to the Working Party a reservation which would have the effect, so far as Switzerland was concerned, of substituting for the obligations contained in Articles XI - XIV, the treatment provided for in the OEEC Liberalization Code. In this connexion the representative of Switzerland declared the willingness of his Government to extend to all contracting parties of the GATT the benefit of the same treatment as Switzerland accords to the members of the OEEC. The Working Party felt that the substitution of the provisions of the OEEC Liberalization Code for those of Articles XI - XIV would constitute a radical departure from the basic provisions of the General Agreement which could not be entertained even during a period of provisional accession.

8. The representative of Switzerland recognized the merit of this position. He stated, however, that Switzerland, which had no balance-of-payments difficulties as defined in the General Agreement, would be put in a less advantageous position than other OEEC countries who can avail themselves of the provisions of Articles XII - XIV in applying the OEEC rules in the area of trade covered by them. This would be all the more inequitable, he stated, as the Federal Government and Legislature accepted the OEEC Code of Liberalization as the basis for trading rules with the OEEC countries, and on the strength of the advantages thus secured for Swiss trading interests in Europe, had made substantial credits to the European Payments Union.

9. The Working Party did not think it appropriate to express a view with regard to the position of Switzerland in the OEEC. The Working Party considered, however, that Article XXIII, and more specifically Article XII, contain provisions which appeared to the Working Party to be adequate to cover the particular difficulties which Switzerland foresaw as likely to follow from the situation which would be created if Switzerland accepted the provisions of Articles XII - XIV without reservation.

10. The Working Party considered that it would be appropriate for the CONTRACTING PARTIES to receive a complaint on the part of Switzerland under the provisions of paragraph 4(d) of Article XII if a contracting party which was otherwise entitled to resort to the provisions of Article XII imposed restrictions upon Swiss exports which were of such a character as to cause damage to the commercial and economic interests of Switzerland, and in considering such a complaint to pay special attention to the question of whether these particular restrictions were necessary. The Working Party in this connexion had particularly in mind the provisions of paragraph 3(c)(iii) of Article XII.

ARTICLE XV:6

11. As regards Article XV, the Swiss representatives made it plain that their reservation would extend only to paragraph 6. The special position of Switzerland and of the Swiss Franc rendered it impossible for them to seek membership in the International Monetary Fund, or to accept the provisions of the Draft Special Exchange Agreement with the CONTRACTING PARTIES, although their monetary policy was and would continue to be consistent with the principles and objectives of the International Monetary Fund and of the Special Exchange Agreement. They therefore considered that it would be appropriate to bring about by a suitable reservation a situation similar to that which had been accepted by the CONTRACTING PARTIES as a result of the waivers accorded to New Zealand and Czechoslovakia. Accordingly, the Swiss Government was prepared to make a Declaration regarding the monetary policy of Switzerland and to accept an obligation to act in exchange matters in accordance with the intent of the General Agreement and, in particular, not by exchange action to frustrate the intent of the provisions of the General Agreement. Switzerland, moreover, would be prepared to consult with the

CONTRACTING PARTIES at the request of any signatory of the Declaration applying the GATT rules between that country and Switzerland which considered that Switzerland had taken exchange action which had a significant effect on the application of the provisions and objectives of the General Agreement.

DURATION OF THE PROVISIONAL ACCESSION

12. The Working Party felt that it was desirable that a fixed period should be specified for the duration of the period of provisional accession. They felt that this period, which might be extended upon request of Switzerland by a decision of the CONTRACTING PARTIES, should be relatively short in view of the desirability that at as early a date as possible, solutions to Switzerland's problems should be found, compatible with the General Agreement, thus opening the way to a permanent accession of Switzerland under Article XXIII. The Working Party therefore suggests that these arrangements for provisional accession should continue in force for an initial period of two years following the ratification by Switzerland of the instrument giving effect to provisional accession.

DESCRIPTION OF THE PROPOSED ARRANGEMENTS

13. The Working Party therefore recommends the following arrangements and procedures for approval by the CONTRACTING PARTIES:

a. That the CONTRACTING PARTIES agree at the present Session to the request of the Swiss Government to enter into tariff negotiations with a view to provisional accession to the General Agreement. These negotiations would be held at some mutually convenient date in 1957 and would be based upon the new tariff when it has been approved by the Swiss Government.

b. The CONTRACTING PARTIES should authorize the Intersessional Committee, in agreement with Switzerland and the contracting parties interested in participating in the negotiations, to make the necessary arrangements for them, including the establishment of a tariff negotiations committee which would also be charged with drawing up an instrument to give effect to the results of the tariff negotiations and to provide for the provisional accession of Switzerland.

c. The tariff negotiations committee would accordingly draw up a Declaration providing for the entry into force of the tariff concessions and for the trade between the signatories and Switzerland to be governed by the terms of the Declaration. These terms should incorporate by reference all the provisions of the General Agreement.

d. The CONTRACTING PARTIES should agree that the acceptance of this Declaration by Switzerland should be accepted as valid even though accompanied by reservations with respect to Article XI and Article XV as set out in the Annex to this report, subject however to a further Declaration by Switzerland which is also set out in the Annex.

e. The Declaration should provide that its provisions would continue in effect for a period of two years from the date of its acceptance by Switzerland, subject to the possibility of renewal, or until such date as Switzerland shall accede to the General Agreement definitively under Article XXXIII, whichever is the earlier.

f. At the first regular session of the CONTRACTING PARTIES following the signature of the Declaration referred to in paragraph c. above, the CONTRACTING PARTIES should pass a Resolution to be approved by two-thirds of the CONTRACTING PARTIES, inviting Switzerland to participate fully in the work of the CONTRACTING PARTIES, this Resolution to continue in effect for the same period as the Declaration.

ANNEX

Reservations by the Government of Switzerland to be attached to
the Declaration

ARTICLE XI

The Government of Switzerland reserves its position with regard to the application of the provisions of Article XI of the General Agreement to the extent necessary to permit the Swiss Government to apply import restrictions pursuant to Title II of the Federal Law of 3 October 1951 as well as to the legislation concerning the alcohol and wheat monopolies based on Art. 32 bis and 23 bis (as amended in 1952) of the Federal Constitution and pursuant to Article 11 of the Federal Law of 28 September 1956. In applying measures under these Laws the Swiss Government will so far as is consistent with the implementation of these Laws, observe to the fullest possible extent the appropriate provisions of the General Agreement, and in particular will endeavour to ensure that they are applied in such a manner as to cause minimum harm to the interests of the signatories to this Declaration. Thus, the Swiss Government, consistently with Article XIII of the General Agreement will apply all restrictions imposed under these Laws in accordance with the principles of non-discrimination, and pursuant to Article XXII of the General Agreement and to paragraph 1 of Article XXIII, will give sympathetic consideration to any representations made to it by any other signatory to this Declaration, and enter into consultation with respect to such representations. At the first session of the CONTRACTING PARTIES following the entry into force of this Declaration and at each annual session thereafter so long as the Declaration remains in force, the Swiss Government will furnish to the CONTRACTING PARTIES a report of the measures maintained consistently with this reservation, and upon request of the CONTRACTING PARTIES, enter into consultation with them regarding such measures.

ARTICLE XV

The Government of Switzerland reserves its position with respect to the provisions of paragraph 6 of Article XV. The Swiss monetary policy is set forth in the Declaration made by the Swiss Government at the meeting of the Eleventh Session of the CONTRACTING PARTIES on 17 November 1956, which is incorporated by reference into this Declaration. In this connexion Switzerland undertakes that it will act in exchange matters in accordance with the intent of the General Agreement and in particular undertakes not, by exchange action, to frustrate the intent of the provisions of the General Agreement. Switzerland agrees to consult with the CONTRACTING PARTIES at any time, subject to thirty days notice, upon the request of any signatory to the Declaration which considers that Switzerland has taken exchange action which may have a significant effect on the application of the provisions of the General Agreement or is inconsistent with the principles and objectives of the Special Exchange Agreement annexed to the Resolution of 20 June 1949.

Further Declaration by Switzerland

Following the entry into force of this Declaration, and the approval by the CONTRACTING PARTIES of a concurrent Decision inviting Switzerland to participate fully in the work of the CONTRACTING PARTIES, Switzerland will enter into consultations with the CONTRACTING PARTIES with a view to finding solutions compatible with the basic principles of the General Agreement, to the problems dealt with in the foregoing reservations.

