

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.8/34

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Special Distribution

Working Party 3 on the Japanese Proposal

## PROPOSED REVISION OF THE WORKING PARTY'S REPORT (G/55)

The Working Party was instructed by its terms of reference to consider any other proposals which might be formulated with a view to providing for Japanese participation in a form and on terms likely to make it acceptable as widely as possible among the contracting parties.

The Working Party felt that the proposal contained two principal elements. The first was the association of Japan with the work of the CONTRACTING PARTIES by participation in its meetings, and the second the application of the provisions of the General Agreement so as to govern commercial relations between Japan and individual contracting parties. As there were some contracting parties which, whilst fully prepared to associate themselves with the first part of this proposal, were not prepared at this time to accept the commitments involved in the second part, the Working Party felt that it would be desirable to separate the two elements and to submit to the CONTRACTING PARTIES two separate instruments, - the first a Decision inviting Japan to participate in the meetings of the CONTRACTING PARTIES and agreeing to perform certain functions for the administration of the Agreement between Japan and those contracting parties which were willing to accept it as a basis for their commercial relations with Japan, and the second being a Declaration by those contracting parties accepting such a relationship. On the basis of these drafts, it would be possible for a contracting party to vote in favour of the Decision, without undertaking any commitments in respect of the Declaration.

It is provided in the Declaration that it shall become effective upon the thirtieth day following the day on which it shall have been signed by Japan and accepted by a contracting party. A contracting party may "accept" the Declaration either by way of signature without a reservation as to acceptance or by notifying the Executive Secretary of its acceptance.

### Notes on the Decision

Re paragraph (i)

It is the intention of this paragraph to give the Government of Japan the possibility of full participation in the activities of the CONTRACTING PARTIES. However, in view of the wording of the provisions of Articles XXV and XXXII, it would not be possible from a strict legal point of view to grant full voting rights to Japan. In the normal course of business this would not be very

important, since the CONTRACTING PARTIES do not usually proceed to a formal vote in reaching decisions; generally, the Chairman takes the sense of the meeting, and in these circumstances Japan would have the same opportunity as contracting parties to express its opinion. Moreover, when the CONTRACTING PARTIES do proceed to take a formal vote, the contracting parties which have accepted the application of the Agreement to their trade with Japan would, so far as they are concerned, regard the opinion expressed by Japan on questions affecting the application or operation of the Agreement as having the same validity as a vote.

The Working Party suggests that Japan should participate in the expenses of the CONTRACTING PARTIES on the same basis as the contracting parties; Japan's contribution would be \$12,000 in 1954.

Notes on the Declaration

Re paragraph (a)

By analogy with paragraph 6 (b) of the arrangement for the application of the General Agreement to acceding governments, it would be understood that the Japanese Government by signing the Declaration would accept the proposed declaration on the prolongation of the assured life of the schedules annexed to the Agreement until 30 June 1955.

It was agreed that the Government of Japan when entering into tariff negotiations would be in the same position as an acceding government. Whereas the obligations of the contracting parties provided for in their schedules to the Agreement would remain valid, subject to action under Article XXVIII, the bindings granted by Japan in the schedule annexed to the Declaration would cease to be valid upon the accession of Japan following tariff negotiations, and thereafter the only tariff obligations of Japan would be those which result from the negotiations. On the other hand, if accession should not take place before 1 July 1955, or by such extended date as may be agreed upon, all obligations under this Declaration, including those of Japan, would cease in accordance with paragraph (c).

Re paragraph (b)

This paragraph has been introduced to cover the special situation of such islands as the Ryukyu, where at the present time the United States has the right to exercise all or any powers of administration, legislation and jurisdiction over the territory and inhabitants.

The Question of Safeguards

After consultations with representatives of all contracting parties concerned, the Working Party found that most of the representatives of governments intending to accept the proposed Declaration do not regard the approval of an interpretation of Article XXIII along the lines of that contained in the report of the Ad Hoc Committee (L/76) as necessary or desirable. On the other hand, some representatives indicated that their governments would prefer

that the CONTRACTING PARTIES approve such an interpretation before their governments accepted the Declaration. In view, however, of the difficulties of reaching an agreement on the question of safeguards, and in view of the provisional nature of the arrangements embodied in the Declaration, the latter representative agreed not to press for a decision on that interpretation.

In any case, the Working Party was unanimous in recognizing that if no such interpretation were adopted at this Session, this would not prejudice in any way the right of any contracting party to request the CONTRACTING PARTIES to reconsider the question of safeguards in connection with proposals for the accession of Japan under the provisions of Article XXXIII.

DRAFT DECISION

CONSIDERING that

- 1) it has not been practicable for the CONTRACTING PARTIES in present circumstances to proceed with the request made by the Government of Japan to accede to the General Agreement in accordance with the provisions of Article XXXIII;
- 2) the CONTRACTING PARTIES are desirous meanwhile of associating the Government of Japan with their discussions and deliberations;
- 3) a number of contracting parties agreed by a Declaration of October 1953 that, pending the accession of Japan following tariff negotiations, their commercial relations with that country shall be governed by the provisions of the General Agreement;
- 4) the said Declaration requests the CONTRACTING PARTIES to perform certain functions comparable in nature to their functions under the General Agreement.

The CONTRACTING PARTIES DECIDE

- i) to invite the Government of Japan to participate in Sessions of the CONTRACTING PARTIES and of subsidiary bodies established by the CONTRACTING PARTIES;
- ii) to accept such functions as are necessary for the operation of the Declaration referred to in the preamble to this Decision;
- iii): that this Decision shall take effect if approved by not less than two-thirds of the contracting parties and shall continue in effect until the accession of Japan following tariff negotiations with contracting parties or until 30 June 1955 unless it is agreed to extend it to a later date.

DRAFT DECLARATION REGULATING THE COMMERCIAL RELATIONS BETWEEN  
CERTAIN CONTRACTING PARTIES TO THE GATT AND JAPAN

CONSIDERING that

- 1) the Government of Japan on 18 July 1952 made a formal request to accede to the General Agreement in accordance with the provisions of Article XXXIII,
- 2) a condition precedent to proceeding with this application would be the holding of satisfactory tariff negotiations between the contracting parties and Japan,
- 3) it is not at present possible for arrangements to be made for such negotiations in the near future,
- 4) accordingly it is not possible for the CONTRACTING PARTIES to proceed at this time with the application of the Government of Japan to accede,
- 5) at the Seventh Session it had been recognized that Japan should take her rightful place in the community of trading nations,
- 6) the Government of Japan has been unilaterally granting in matters of trade, most-favoured-nation treatment to all contracting parties whether or not they accord most-favoured-nation treatment to Japan,

The Governments of those contracting parties to the General Agreement on Tariffs and Trade on behalf of which this Declaration has been accepted (hereinafter called "the participating contracting parties") and the Government of Japan

1. DECLARE that

(a) pending the conclusion of tariff negotiations with Japan with a view to the accession of that country under the provisions of Article XXXIII, and without prejudice to the freedom of individual contracting parties on the question of such later accession, the commercial relations between the participating contracting parties and Japan shall be based upon the General Agreement as if the provisions of the arrangement for the application of the General Agreement to acceding governments, approved by the CONTRACTING PARTIES on 23 October 1951 (Basic Documents, Vol.1, pp.111 to 115), were embodied in this Declaration and as if the Schedule annexed to this Declaration were the schedule of an acceding government within the terms of the said arrangement;

(b) in view of the provisional nature of the status of the islands referred to in Article 3 of the Treaty of Peace with Japan, this Declaration shall not require any modification in the present arrangements for trade between Japan and such islands;

(c) the arrangements embodied in this Declaration shall not be applied after the accession of Japan to the General Agreement following tariff negotiations with contracting parties, or after 30 June 1955 unless it has been agreed to extend the validity of this Declaration to a later date,

(d) this Declaration shall become effective between Japan and any contracting party on the thirtieth day following the day upon which it will have been signed by Japan and accepted by that contracting party,

2. REQUEST the CONTRACTING PARTIES to perform such functions as are necessary for the operation of this Declaration.

3. This Declaration shall remain open for signature until 31 December 1953 by contracting parties and by Japan at the Headquarters of the CONTRACTING PARTIES.

A N N E X

Schedule of Accession by Japan