

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/19

17 November 1954

Special Distribution

CONTRACTING PARTIES

Ninth Session

Working Party II on Tariffs,
Schedules and Customs Administration

PROPOSALS AFFECTING ARTICLE XXVIII

In accordance with the order of business adopted by the CONTRACTING PARTIES, the first task of the Working Party is to examine the proposals affecting Article XXVIII. In order that the Working Party may begin its examination of this first question without delay the following brief analysis of some of the topics which require consideration is distributed. An analysis of the specific proposals will be submitted to the Working Party shortly.

It is clear from the discussion in plenary meetings that the review of Article XXVIII cannot be dissociated from item 5 of the Ninth Session Agenda, namely - The Status of Schedules after 30 June 1955. Therefore the Working Party has two aspects of this problem to consider:

1. Item 3 of the Agenda: the amendment of Article XXVIII looking to the long term. (The amendments agreed upon will not become effective until the revised article has been accepted by two-thirds of the contracting parties.)
2. Item 5 of the Agenda: the arrangements to be made for the short term, in particular the status of Schedules as from 1 July 1955.

I. QUESTIONS AFFECTING THE LONG TERM

(a) Whether the procedures for renegotiation are to be available to contracting parties at any time (as proposed, for example, by the United States), or whether as in the past there are to be fixed periods of firm validity during which the right of renegotiation would not be available.

(b) If there are to be fixed periods of assured life, whether the procedures for sympathetic consideration of requests to renegotiate within the fixed periods are to be incorporated in the Article.

- (c) In the case of negotiations under (a) or (b) should there be provision for arbitration by the CONTRACTING PARTIES in the event of failure to reach agreement?
- (d) Regardless of the answer to (a) or (b), whether the provision for unilateral action in paragraph 2 is to be deleted.
- (e) Whether provisions should be made, along the lines of Article XIX, which would allow a contracting party to take emergency action pending the negotiation to protect the position of a developing industry in circumstances in which delay in increasing the bound rate of duty would be likely to cause damage difficult to repair.
- (f) Whether a contracting party proposing to modify a concession should be required to negotiate (instead of merely consult) with contracting parties having a substantial interest in the concession concerned.
- (g) What provision should be made for meeting the special needs of underdeveloped countries in respect of bound items? Should any such provision be made in Article XXVIII or in a revised version of Article XVIII A?

II. QUESTIONS AFFECTING THE SHORT TERM

- (a) Whether the date in paragraph 1, which except for Brazil has been effectively amended to read 30 June 1955, is to be extended. (31 December 1957 has been suggested.)
- (b) Whether or not the date is to be extended, should arrangements be made to afford an opportunity for contracting parties, which have indicated that they wish to modify certain rates shortly after the end of June 1955, to renegotiate such items prior to the end of June.