

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

Spec(85)22/Corr.2
7 February 1986

WORKING PARTY ON PARAGRAPH 4 OF THE PROTOCOL
FOR THE ACCESSION OF SWITZERLAND

Draft Report of the Working Party

Corrigendum

Page 1 - paragraph 2, first line:

After "18 March", insert ", 28 June, 29 October and ..."

Page 10 - insert two new paragraphs:

20. One member of the Working Party asked whether the measures applied in respect of white wine in bottles were consistent with paragraph 4 of the Protocol of Accession. The import restrictions that Switzerland applied, by derogation from Article XI of the General Agreement, were required to be consistent with certain Swiss legislation. However, Article 23 of the Law on Agriculture, of 3 October 1951, under which those measures had been adopted, stipulated that measures could only be taken if certain conditions were fulfilled, namely if imports were jeopardizing the disposal of agricultural products at equitable prices in accordance with the principles of that Law. The conditions established by Article 23 were not taken into consideration in respect of measures in the wine sector. Furthermore, the duration of measures (whether for a three-year period or indeterminate) did not take account of possible changes in this situation, and imports did not seem to be the only factor taken into consideration for their application. It seemed desirable to examine the consistency of the measures taken with paragraph 4 of the Protocol of Accession. Other members of the Working Party recalled that the problem had already been raised and that it also concerned other products such as meat or cut flowers.

21. The representative of Switzerland said that interpretation and application of domestic legislation were matters within the sovereignty of the country concerned; any measures taken having regard to a given situation under the provisions mentioned could be revoked if the situation changed. Furthermore, Article 23 of the Law on Agriculture stated: "If imports jeopardize the disposal of agricultural products at equitable prices, according to the principles of the present Law, the Federal Council may, taking account of the other sectors of the economy ...". The principles underlying that Law should therefore be taken into consideration because it was by reason of them and the corresponding articles of the Federal Constitution that, on the occasion of acceding to GATT, Switzerland had requested the inclusion in its Protocol of an exemption for which it had "paid". The Swiss representative underlined that his country had respected the obligations set forth in its Protocol of Accession.

The numbering of the concluding paragraphs of the report is amended:

22. The representative of Switzerland thanked the members of the Working Party for the interest they had shown. His delegation had tried to reply accurately to questions within the Working Party's mandate and to furnish more general elements of information that could allow better understanding of Swiss agricultural policy and the modalities of application of paragraph 4 of the Protocol of Accession. It had furnished with the necessary details and transparency the information needed for the Working Party's consideration, and was prepared to confirm or clarify on a bilateral basis the information furnished. The Swiss delegation did not share the concern expressed by some delegations regarding application of the provisions of paragraph 4, and considered that some of the remarks made had no place in the Working Party's deliberations. Nevertheless his authorities, which were anxious to respond to the fullest extent possible to the wishes of Switzerland's trade partners, would be fully informed, and would also be advised of the suggestions made regarding the content of future reports.

23. Some members of the Working Party came to the conclusion that there was a lack of transparency concerning certain aspects of the operation of the terms of the Protocol and accordingly took the position that Switzerland had not complied with the requirements of the Protocol. They therefore suggested that the Working Party proposes that the CONTRACTING PARTIES recommend that Switzerland provide in its future reports under paragraph 4 of the Protocol of Accession all the necessary information in respect of the operation of the Protocol.

24. Other members however came to the conclusion that the information provided by Switzerland corresponded to the transparency requirement of paragraph 4 of the Protocol and therefore took the position that Switzerland had complied with the requirements of the Protocol.

25. The Working Party took note of the report as well as of the readiness of Switzerland to provide in its future reports under paragraph 4 of the Protocol of Accession all the necessary information relevant to the operation of the Protocol.