GENERAL AGREEMENT ON TARIFFS AND TRADE

FIRST SESSION OF THE CONTRACTING PARTIES

DRAFT PROTOCOL OF SUPERSESSION AND AMENDMENTS

In accordance with the indication of the Chairman at the second meeting of the Contracting Parties, held on 2 March, there is circulated herewith a draft protocol on supersession and amendments of the Agreement for initial consideration by the interested Governments.
The Governments of the Commonwealth of Australia, the Kingdom of Belgium, the United States of Brazil, Burma, Canada, Ceylon, the Republic of Chile, the Republic of China, the Republic of Cuba, the Czechoslovak Republic, the French Republic, India, Lebanon, the Grand-Duchy of Luxembourg, the Kingdom of the Netherlands, New Zealand, the Kingdom of Norway, Pakistan, Southern Rhodesia, Syria, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Having signed the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment and having thereby authenticated the text of the General Agreement on Tariffs and Trade,

Having participated in the United Nations Conference on Trade and Employment, which has framed a Charter for an International Trade Organization, and

Being desirous of giving effect to certain changes in the text of the general provisions of the General Agreement,

Agree as follows:

1. Article XIV of the General Agreement on Tariffs and Trade is amended to read as follows:

   [Insert text of Article 23 of Charter]

2. Article XXIV of the General Agreement on Tariffs and Trade is amended to read as follows:

   [Insert text of Article 42 of Charter]

3. Paragraph 5 of Article XXV of the General Agreement on Tariffs and Trade is amended to read as follows:

   "5. (a) In exceptional circumstances not elsewhere provided for in this Agreement, the Contracting Parties may waive an obligation imposed upon a contracting party by this Agreement; Provided that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the contracting parties,

   The Contracting Parties may also by such a vote

   (i) define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations, and

   (ii) prescribe such criteria as may be necessary for the application of this paragraph.

   /(/b) If any
(b) If any contracting party has failed without sufficient justification to carry out negotiations with another contracting party, of the kind described in Article 17 of the Charter for an International Trade Organization, the CONTRACTING PARTIES may, upon complaint and after investigation, authorize the complaining contracting party to withhold from the other the concessions incorporated in the relevant Schedule to this Agreement. In any judgment as to whether a contracting party has so failed, the CONTRACTING PARTIES shall have regard to all relevant circumstances, including the developmental, reconstruction and other needs and the general fiscal structures of the contracting parties concerned and to the provisions of the Charter as a whole. If in fact the concessions referred to are so withheld, so as to result in the application to the trade of the other contracting party of tariffs higher than would otherwise have been applicable, such other contracting party shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice is received by the CONTRACTING PARTIES.

(c) The provisions of sub-paragraph (b) shall not apply as between any two contracting parties the Schedules of which contain concessions initially negotiated between such contracting parties."

1. Paragraph 1 of Article XXIX of the General Agreement on Tariffs and Trade is amended to read as follows:

"1. The Contracting parties, recognizing that the objectives set forth in the preamble of this Agreement can best be attained through the adoption of the Havana Charter for an International Trade Organization, undertake to observe to the fullest extent of their executive authority the general principles of the Charter pending their acceptance of it in accordance with their constitutional procedures.

3. To amend paragraph 2 of Article XXIX to read as follows:

"On the day on which the Charter of the International Trade Organization enters into force, and for such time as the Charter remains in force, Paragraphs 1 and 2 of Article I and Part II of this Agreement shall be suspended and superseded by the corresponding provisions of the Charter."

/6. Article XXXIII
6. Article XXXIII of the General Agreement on Tariffs and Trade is amended to read as follows:

"A government not party to this Agreement, or a government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the CONTRACTING PARTIES. Decisions of the CONTRACTING PARTIES under this paragraph shall be taken by a two-thirds majority."

7. The present Agreement shall enter into force on .................

In witness whereof the representatives have signed the present Agreement.

Done at Havana, in a single copy, in the English and French languages, both texts authentic, this __________ day of March 1948.