GENERAL AGREEMENT ON TARIFFS AND TRADE
Tenth Session of the Contracting Parties

Accession of Japan and Invocation of Article XXXV by fourteen Countries

Statement by K.L. Hr. Toru Haguiwara

Earlier in this Session the Japanese Representative made a statement concerning the situation which had arisen due to the invoking of Article XXXV against Japan by fourteen countries (press release GATT/247). At the conclusion of the subsequent debate (press release GATT/249) it was agreed that the problem could be informally discussed between the Japanese and other delegations with a view to seeking a solution. The following statement on the progress of these discussions by Mr. Toru Haguiwara has been made in plenary session.

On the problems concerning the accession of Japan we have had very interesting discussions in the course of the meeting which was held a fortnight ago. It is in the light of these discussions and in accordance with your suggestion, Mr. Chairman, that I have got in touch with some delegations to clarify the question and possibly to find a solution. Now let me first of all submit a few comments on some of the statements which were made in the course of the previous meeting.

Our eminent colleague from India pointed out that the fact of invoking Article XXXV is a two-way operation, and he is perfectly right. However, if we had the right to discriminate countries which have invoked Article XXXV, it is not easy to do so, while adopting at the same time a complete commercial policy in conformity with the General Agreement. Besides, we do not wish to apply a discriminatory policy towards any country. But the fact remains, nevertheless, that although we do not wish this, fourteen countries want to maintain tariff or other discrimination against us, or at least wish to preserve the possibility of applying discriminatory measures towards Japan. Most of the contracting parties enjoy the benefits of the General Agreement from practically all the contracting parties. Japan benefits by advantages from only 20 contracting parties, whereas it has subscribed to the same general obligations of the Agreement. I think therefore that I have the right to request a remedy to such a state of affairs. Moreover, there is still another aspect of this situation. There is no doubt that these fourteen countries have the right to vote as contracting parties on questions concerning solely the interests of Japan, and likewise Japan has undoubtedly the right to vote on all questions before the Contracting Parties and could therefore express a decisive opinion in a vote on questions concerning one of these fourteen countries. At the same time let us suppose that Japan should request a waiver
to certain obligations of the General Agreement for which Article XXV requires a 2/3 majority of the votes cast including more than one half of the contracting parties and let us suppose that these fourteen contracting parties abstained from voting because they are not individually interested in the question. Japan would then, in actual fact, have to obtain the support of almost all the rest of the contracting parties in order to fulfil the required conditions. This is a very embarrassing situation for Japan, for the contracting parties and for the application of the General Agreement. I am not requesting today a modification or a waiver in relation to the right of vote or the voting procedures, but I reserve the right to raise the question in case the present situation should not be remedied within the near future.

Another statement which also deserves a reply is that made by Monsieur André Philip, our eminent colleague from France, who with the extraordinary clarity which characterized his remarks, gave an analysis of the economic structure of Japan and referred to the two concerns of his Government - the crisis of the French textile industry, and the need for France of the economic development of its overseas territories. On the first item I heard recently with regret that the offer made by Japanese industrialists to enter into consultations was not met favourably by French industrialists, whereas similar suggestions were more favourably received in other countries. As regards the overseas territories, the General Agreement, especially since the last revision, has sufficient machinery to accelerate economic development, without maintaining an exclusion against one country. I hope in any case that the Customs Union to which M. André Philip referred elsewhere will not signify the extension of discriminations maintained in metropolitan territory towards overseas territories, some of which do not at present apply tariff discriminations against Japanese products. One of the items which struck me most in the statement of the French delegate was the assertion that the General Agreement contains rules which could be applied only by countries having a comparable economic structure. Now, is this the most-favoured-nation rule which France applies to products originating from most of the countries practising state trading? The differences in economic structures has been a subject of discussions many times within the Contracting Parties, especially at the time of the revision of Article XVIII, and that is sufficient to demonstrate that the General Agreement should provide for participation by countries of different economic structures. It is difficult for us to understand why some of the contracting parties observe the rules of the General Agreement in relation to existing contracting parties which have different types of economic structures, but cannot apply them to the contracting party which has just acceded to it, because of the difference of its economic structure. If we follow the argument of the French delegate, the logical conclusion would be to divide the contracting parties into several different groups, each one applying a series of different rules. This thought leads me to believe that the concern of my Government was well founded. In fact my Government has always insisted that rules solely applicable to Japan should not be adopted within the GATT. The countries
which have invoked Article XXXV should have no illusions that in this way they will be able to impose, either by bilateral agreement or within the Contracting Parties, rules applicable between these countries and Japan which deviate from the principles and rules of the General Agreement, and especially any which would be contrary to the Agreement. Our Minister, Mr. Takasaki, already stressed the other day that my Government would never be able to accept arrangements having a discriminatory character directed solely against Japan. I know this complex very well, this aversion to discrimination on the part of my Government and on the part of the Japanese people, who think, rightly or wrongly, that non-discriminatory treatment on the part of the free world is a condition sine qua non for collaborating with it. A large number of delegates of countries which have invoked Article XXXV have assured me recently that we should not see in this any unfriendly policy towards Japan. I believe them, but unfortunately I do not think this can be easily understood by my people. The instructions given me by my Government were to find a formula of general application, such as the one examined in February 1953 which could provide an additional safeguard to contracting parties in exceptionally serious circumstances of too acute competition.

I fully understand the concern of the contracting parties in wishing to avoid anything which could weaken the provisions of the General Agreement or alter its basic principle, but I hardly see how GATT could deviate from the basic principle of any international association - that of the equality of rights of all its members.

There is another consideration: the special rules, if adopted, between Japan and the countries having invoked Article XXXV, could only be detrimental to countries which have already agreed to the full application of the Agreement towards Japan. It is not easy therefore to find a solution which would not be discriminatory towards Japan, which would not be inequitable for the others, and would not weaken the General Agreement.

It is in the hope of finding a solution to this vicious circle that I have endeavoured to continue consultations with the various delegations. I have noted by these consultations that although the circumstances which led these fourteen governments to have recourse to Article XXXV were not entirely identical in each case, most of them concerned difficulties which these governments feared would arise in certain sectors of their industry by too massive imports of Japanese products. These fears do not seem founded, but even if they were justified, the difficulties could certainly be overcome, provided the interested parties were prepared to seek a friendly solution to them. Far from us would be the idea of creating crises in our clients' countries. We should like our exports to develop harmoniously with the interests of countries importing our products. We wish, as exporters, to undertake the responsibility - and we have the means of doing so - of insuring an orderly expansion of our markets. In any case, in my opinion, the difficulties feared by certain importing countries who import our products are of a marginal nature, and these countries must realize that recourse to Article XXXV, that is to say, complete exclusion of the application of the General Agreement...
Agreement towards Japan, is a measure out of all proportion to the remedy they seek for the problem they have to face.

Here I see a comforting sign. I am led to believe that all countries wish to put an end as soon as possible to this present embarrassing situation, and whatever the practical modalities selected during this transitional period, hope, at some future date, to reach complete application of the General Agreement in their commercial relations with Japan.

I am not so naive as to believe that an immediate solution of the problem could be found today or tomorrow. The problem is a complex one and it is of capital importance for the principles of GATT. But even if we did have to provide for a transitional period, it should be as short as possible, and the Contracting Parties should always make sure that it was concluded as rapidly as possible. Besides, this transitional period should not permit a modus vivendi which would deviate from the GATT principles.

In the course of the five years during which I have been your patient and faithful observer, I have noted the respect you attach to the maintenance of principles, and the practical way in which you apply these principles. These are two qualities of GATT to which we wish to appeal once more in the solution of our problem. I regret to say that after seeking a solution for two weeks, I am not in a position to submit any concrete proposal which could be acceptable to the Contracting Parties. In the course of private discussions conducted with several delegations, very useful suggestions have been made and I wish to avail myself of this opportunity to express my appreciation for all the efforts put forward by these delegations. I hope the Contracting Parties will agree to allow me to continue contacts and private talks on these problems, before reverting to them either in plenary meeting or within a small working party. Thank you, Mr. Chairman.