TARIFF NEGOTIATIONS
Torquay

PROPOSED AMENDMENT TO ARTICLE XXVIII

Communication from the Czechoslovak Delegation regarding the draft Torquay Protocol

The Czechoslovak Delegation takes a sympathetic view of the efforts towards the simplification of the final protocol, the Protocol of Accession and all the other protocols. We are, however, doubtful whether the efforts in the Legal Working Party towards one single protocol will mean a simplification, owing to the different constitutional aspects in different countries. We feel that in many cases the present Contracting Parties will only bind their tariff concessions or will renounce the use of Article XXVIII, so that the procedure with regard to these countries will, in different countries, probably be different from that with the acceding countries. As far as the Czechoslovak Delegation is aware, the existence of two protocols as far has not caused any difficulty.

We therefore do not share the view that it is desirable for one and the same document to contain the results of the negotiations of the present Contracting Parties and also of the acceding countries. We consider that it would be more desirable to separate those two subjects into two protocols. We do not think that this would cause any special difficulties to the acceding countries. On the contrary, it seems to us that it would simplify and facilitate matters. Where the acceding countries have negotiated about concessions which the Contracting Parties have already granted to each other, there is nothing to prevent these concessions from being included afresh in the Protocol of Accession. We append the draft of a protocol for the present Contracting Parties among themselves. For the acceding countries, it could, on the whole, be identical with that of Annecy.

We have no comments to make on the change in Article XXVIII. We do not know, however, if the delegations will be able to sign this wording at the end of the Conference at Torquay, because this is a change in an agreement which in various countries has acquired the authority of law. Nor is an immediate signature necessary, if the declaration is passed (Supplement III GATT/TN.2/12) which is fully adequate to cover the security of concessions for the transition period until the countries shall have time to sign the protocol on the change in Article XXI.

If, however, there were an endeavour to obtain signatures at the earliest possible date, perhaps the best course would be not to conclude the session of the Contracting Parties at the end of December, but in a formal manner to leave the session of the Contracting Parties unconcluded, so that this session may be concluded in a formal manner when the customs tariff negotiations come to an end. At that point the protocol on the change in Article XXVIII could evidently be already signed, because in the meantime the countries would have an opportunity of getting it sanctioned by their Governments.

The Czechoslovak Delegation would be grateful if these observations could, at the earliest possible date, be circulated, together with the attached draft, among the Contracting Parties, and possibly be made known also to the Legal Working Party.
Draft Protocol for the Application of Concessions
negotiated by the Contracting Parties

The Governments of ... ... ... ... ... ... ... ...
which are the present Contracting Parties to the General Agreement on Tariffs and Trade, hereinafter called "The Contracting Parties",

Having regard to the results of the negotiations between them,

Have through their representatives agreed as follows:

1. The Schedules of concessions annexed to the General Agreement on Tariffs and Trade and to the Annecy Protocol of Terms of Accession shall be modified in accordance with the schedule relating to each Contracting Party and contained in Annex ... to this Protocol.

2. The modifications provided for in the annexed schedules shall enter into force not later than the thirtieth day following the day of acceptance of this Protocol.

3. Any Contracting Party which has signed the present Protocol shall be free at any time to withhold or to withdraw in whole or in part any concessions provided for in the appropriate Schedule contained in Annex ..., in respect of which such Contracting Party Government determines that it was initially negotiated with a Contracting Party which has not signed this Protocol; provided the Contracting Party withholding or withdrawing in whole or in part any such concession shall give notice to all other Contracting Parties within thirty days after the date of such withholding or withdrawal and, upon request, shall consult with the Contracting Parties which have a substantial interest in the product concerned; and provided further that, without prejudice to the provisions of Article XXV of the General Agreement, any concession so withheld or withdrawn shall be applied from the thirtieth day following the day upon which the Contracting Party with which it was initially negotiated signs this Protocol.

4. The original text of this Protocol shall be deposited with the Secretary-General of the United Nations and shall be open for signature at the Headquarters of the United Nations by the Contracting Parties from ... ... ... ... ... ... until ... ... ... ... ...

etc. (usual provisions).