SUGGESTIONS FOR DEALING WITH UNFINISHED ARTICLE XXVIII NEGOTIATIONS

Note by the Secretariat

The following suggestions are submitted by the Secretariat, after consultation with certain of the delegations immediately concerned with this problem, as a basis for discussion by the Legal Working Party.

It is submitted that it would be unwise to endeavour at this late stage to meet the difficulty by amendment of the Declaration on the Continued Application of the Schedules to the General Agreement on Tariffs and Trade or of the Torquay Protocol, or to envisage the admission of reservations to the Declaration or to paragraph 6 of the Protocol. Accordingly, it is suggested that the Contracting Parties should be requested, acting pursuant to Article XXV of the Agreement, to authorise the contracting parties concerned to pursue negotiations on certain specific items. A draft resolution on these lines is set out below. It will be seen that the resolution specifies a procedure closely analogous to that of Article XXVIII. Certain date limits have, however, been suggested the object of which is to ensure that these outstanding negotiations may be disposed of without undue delay.

Draft Resolution

WHEREAS the Contracting Parties have drawn up an amendment to Article XXVIII of the General Agreement which will be embodied in the Torquay Protocol to the Agreement and have invited all contracting parties to sign at the conclusion of the Torquay Conference a Declaration by which they would waive their right to invoke prior to January 1, 1954, the provisions of paragraph 1 of Article XXVIII of the General Agreement;

WHEREAS under the Torquay Protocol only those modifications of the Geneva and Aneby Schedules which have been agreed upon or to which no objection has been raised in the course of the Torquay Conference can enter into force without further consultation with the contracting parties concerned or action by the Contracting Parties;

WHEREAS moreover, it has not been possible to reach an agreement in time to record in the Schedules annexed to the Torquay Protocol the results of the negotiations concerning the proposed modifications listed in Annex I to this resolution,

The CONTRACTING PARTIES decide, pursuant to Article XXV(5)(a),

1. That notwithstanding the signature of the Declaration on the continued application of the Schedules to the G.A.T.T. and of the Torquay Protocol, the governments of .................. shall be authorised to pursue the negotiations relating to the proposed modifications which are listed in the annex to this resolution with the contracting party or contracting parties with which each concession was initially negotiated and with the contracting parties which, during the Torquay Conference, have notified that they had a substantial interest in that concession.
2. The contracting parties concerned shall endeavour to reach an agreement on or before 1 July 1951 and to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in the present Agreement.

3. Any modification on which agreement is reached before 1 July 1951 may be made effective by agreement of the negotiating parties, provided that at least thirty days' notice of the date on which the modification or modifications will become effective shall be given to the Executive Secretary.

4. If, by the 1 July 1952 no agreement has been reached on a proposed modification listed in Annex I to this Resolution, this fact shall be notified to the contracting parties through the Secretariat by the contracting party seeking the modification, and that contracting party shall be free to put into effect such modification on or after the thirtieth day following such notification.

5. If a contracting party is substantially affected by a modification made effective under paragraph 4 of this Resolution, it will be free to withdraw substantially equivalent concessions initially negotiated with the contracting party taking action under 4 above, provided that such proposed action is notified to the contracting parties through the Secretariat by that contracting party not later than 1 October 1952 and that no objection is raised by a contracting party substantially affected by the withdrawal, within a time-limit of thirty days from the date of the notification and provided further that, if no objection is raised, the proposed withdrawal shall not take effect earlier than the thirtieth day following the date of the notification.

6. The Contracting Parties shall make provision not later than the Sixth Session for the entry into force of such withdrawals proposed under paragraph 5 to which valid objections had been raised under that paragraph.