Relations between Poland and the CONTRACTING PARTIES

In accordance with the arrangements made at a meeting of Heads of Delegations on 22 April 1958 (Spec/101/58) a number of questions intended to elicit information on technical points concerning the proposal of the Government of Poland for accession to the General Agreement, have been drawn up and have been transmitted to the Government of Poland. The letter of transmittal and the questions are reproduced herein.
8 August 1958

Sir,

I have the honour to refer to the proposal, which you presented to a meeting of representatives of contracting parties to the General Agreement on Tariffs and Trade on 22 April 1958, for Poland's accession to the General Agreement.

You will readily understand that when a government wishes to accede to the Agreement the contracting parties wish to assess carefully the prospects for an equivalence in the rights and obligations which would be acquired and assumed by the acceding country, on the one hand, and contracting parties, on the other. Before considering your proposal, therefore, the governments, parties to the Agreement, would like to clarify a certain number of technical points in order to have a better understanding of the conditions and circumstances of Poland's foreign trade arrangements in relation to the provisions of the General Agreement. In order to assist these governments, I have the honour to transmit a list of questions on a number of technical points.

It would be appreciated if the answers could be sent to me in the first week of September, in order that I may be in a position to arrange for an examination of the replies and for their circulation to the contracting parties prior to the Thirteenth Session. I believe it would be helpful if a representative of your Government could come to Geneva some time in September in order to give any explanations and additional information that might be desired.

Accept, Sir, the assurances of my highest consideration.

E. Wyndham White,
Executive Secretary.

Mr. F. Modrzewski,
Vice-Minister of Foreign Trade,
Warsaw.
RELATIONS WITH POLAND

Questions transmitted to the Government of Poland
by the Executive Secretary to the CONTRACTING PARTIES

1. Could the Polish Government furnish an English or French text of the
more important basic laws, regulations and orders concerning the control
of imports and exports (including the Law for the establishment of foreign
trade Organizations, and any regulations or decrees relating to the structure
and functions of the Organizations)?

2. Could the Polish Government furnish a description of the methods used
in drawing up the import and export programmes, the content of the programmes
(classified by, for instance, areas, countries, commodities, settlement
currencies, etc.)? Has Poland a foreign exchange budget system for imports?
What discretion may be exercised by the foreign trade Organizations under
the programmes and what are their obligations?

3. What statistics of foreign trade can be made available to the contracting
parties and how are the trade values contained therein computed?

4. In which cases - with respect to countries and commodities - do formal
obstacles to Polish export exist of such a kind that adherence to the GATT
could lead to their elimination? To what extent are Polish exports con-
sidered to be suffering from such obstacles?

5. What long-term commitments (including preferential arrangements,
clearing arrangements, etc.) have the Polish Government or the import
monopolies (or agencies) undertaken, which might affect Poland's obligations
towards contracting parties under the GATT? What would the Polish Government
propose to do about such commitments?

6. Would the Polish Government be prepared to supply detailed information
about its obligations within the framework of the Council for Mutual Economic
Aid and the possible effect of such obligations on her obligations towards
contracting parties under the GATT?

7. What is the method of settling accounts and extending credit among the
countries members of the Council for Mutual Economic Aid? (Is there a system
of multilateral settlement?)

8. If a standard method of settlement by currencies is applied, what are
the characteristics of that method?

9. What is the method of settling accounts with Western countries? Is a
clearing system applied, and if so what is the basic form of that system?
10. With which countries has Poland already established multilateral payments arrangements?

11. In what respect and by what means could the Polish Government assure the contracting parties that Poland would accord their imports treatment no less favourable than that accorded to imports from other countries?

The Provisions of Article XVII

12. (a) Under Article XVII the parties to the GATT undertake that State enterprises shall act in a manner consistent with the general principles of non-discrimination. What measures would the Polish Government be prepared to take to ensure to the satisfaction of contracting parties that the operations of the State import monopolies (or agencies) would not in effect discriminate in favour of suppliers in the territories of some contracting parties at the expense of suppliers in the territories of other contracting parties or in favour of countries outside the GATT at the expense of the GATT countries?

(b) Under Article XVII the parties to the GATT undertake that State enterprises shall make their purchases solely in accordance with commercial considerations and shall afford the enterprises of other contracting parties adequate opportunity to compete for participation in such purchases. What measures would the Polish Government be prepared to take to ensure to the satisfaction of the contracting parties that their enterprises will enjoy this opportunity?

(c) What measures would the Polish Government be prepared to take to ensure to the satisfaction of the contracting parties that commitments entered into under bilateral agreements would not prevent the State import monopolies (or agencies) from complying with the undertakings set forth in (a) and (b) above?

(d) What measures would the Polish Government be prepared to take to ensure to the satisfaction of the contracting parties that there would be no discrimination, except on the basis of commercial considerations, between domestic products and like products imported from contracting parties?

(e) What kinds of information would the Polish Government be able to furnish to enable contracting parties to test whether measures taken under (a) to (d) were adequate and that the obligations under Article XVII were being observed?

The Proposed Global Import Quotas

13. The Polish Government has indicated that, pending the introduction of a tariff, "global import quotas" might be granted in respect of traditional imports of particular interest to contracting parties. The CONTRACTING PARTIES would wish to be assured that such global quotas would represent genuine opportunities for selling. Would the establishment of a global quota represent:
(a) an undertaking to buy from contracting parties goods up to
the amount of the quota, or

(b) merely permission to import up to the amount of the quota
if sales could be negotiated?

If neither (a) nor (b), what would the quota represent?

14. According to what principles would the total value of the global
quotas and the amounts of the quotas for individual products be determined?

15. Can the Polish Government give some examples of the products which
might be covered by the global quotas and of the level of trade contemplated?
Would the Polish Government be prepared to establish quotas for agricultural
as well as for non-agricultural products?

16. Does the Polish Government contemplate limiting global quotas to
"traditional" imports? If so, why?

17. Does the reference to "traditional" imports mean that the range of
products for which global quotas might be opened would not be such as to
allow scope for the development of imports of products which Poland has not
hitherto imported from contracting parties? If not, in what other products
might trade be expanded?

18. Is it proposed that quotas should be opened for a volume of trade
roughly equal to the Polish export trade which might be affected by the
tariff concessions (including bindings of existing tariffs) which Poland
would be entitled to enjoy on accession to the GATT?

19. Would the value of Poland's imports from individual countries be
tied to the value of her exports to the same countries?

20. Would a global quota be a quota for the whole world or a quota for
only the contracting parties?

21. In determining the size of global quotas, how would the Polish Govern-
ment propose to ensure that there would be no discrimination in favour of
countries outside the GATT at the expense of contracting parties? What
information could be furnished to enable contracting parties to test this?

22. In the administration of the quotas, how would the Polish Government
ensure non-discrimination as between contracting parties? What relation-
ship would there be between global quotas and quotas granted to individual
contracting parties under bilateral agreements? Would payments arrangements
be such that all contracting parties could take advantage of the global
quotas on a non-discriminatory basis? Would quotas be allocated among
supplying countries and, if so, on what basis? For example, could a system
of tenders be used in order to ensure equitable purchases under global quotas?
Would adequate opportunity be given to distant countries to compete? Would
details of successful tenders be made promptly available?
23. Tariff concessions, although negotiated by reference to a specific volume of trade, become more valuable to exporting countries as imports of the items concerned increase. How would the Polish Government propose to ensure that contracting parties would be able to share in any increase in domestic consumption of the items covered by global quotas?

24. What arrangements would the Polish Government contemplate for the importation of goods not covered by global quotas? How would the Polish Government propose to ensure non-discrimination between (a) contracting parties, and (b) between contracting parties and other countries?

Balance-of-Payments Import Restrictions

25. Can the Polish Government indicate what, in its view, would constitute an adverse balance-of-payments situation, in the sense of Article XII, for a country with a planned economy whose external trade is carried on entirely by State-trading? Can the Polish Government indicate what Poland's balance-of-payments position is at the present time? Would the prevailing balance-of-payments situation in Poland influence the determination of the range and volume of the global quotas that might be granted to contracting parties?

26. If the Polish Government considered that an adverse balance-of-payments situation existed in Poland:

(a) Would it contemplate that the amounts of the global quotas would be subject to reduction for balance-of-payments reasons under Article XII? If so, would the reductions be on a discriminatory basis as envisaged in Article XIV?

(b) How would contracting parties be able to test whether the volume and range of imports effectively permitted by the Polish Government (both in goods covered by global quotas and in other goods) were as great as its balance-of-payments position justified, i.e., whether the limitation on the level of imports was in excess of that justified under Article XII for balance-of-payments reasons? Would the Polish Government be prepared to consult annually with the CONTRACTING PARTIES about the limitations on the level of imports in common with other contracting parties operating under Article XII, and what types of statistical and other information would it be prepared to supply to enable them in those consultations to make the test referred to? Would the Polish Government be prepared to accept recommendations, in the course of consultations, for the modification of particular quota arrangements?

27. A contracting party which applies quantitative import restrictions pursuant to Article XII is required to relax the restrictions and ultimately to remove the controls altogether as its balance-of-payments situation permits. In the light of the answer to Question 13, would the Government of Poland contemplate increasing the range and volume of its global import quotas as its balance-of-payments situation improved or carrying out the obligations by some other means?
The Proposed Customs Tariff

28. Could the Polish Government provide an outline of the expected revision of the customs laws?

29. In view of the fact that imports are reserved to State monopolies (or agencies), what rôle would a customs tariff play in the Polish economy? Does the Government of Poland propose to introduce a customs tariff at the time of, or prior to, accession? If not, when would the tariff be made fully effective? Would the tariff be applied to imports from non-GATT countries as well as to imports from contracting parties?

30. The Polish authorities have expressed the opinion (see Spec/139/58) "that Poland with the concurrence of the countries concerned, should be able to substitute ordinary tariff concessions for certain agreed quantitative commitments as soon as the customs tariff has entered into force". If, after the establishment of a customs tariff, State import monopolies (or agencies) would still intervene between the foreign exporter and the consumer, what advantage would there be for the exporter in the substitution of tariff concessions for the global import quotas? Would the Polish Government be prepared to consider entering into negotiations for the binding or reduction of the duties on items for which quotas had been established?

31. In the event that contracting parties should find the advantages of a substitution of tariff concessions for quotas acceptable, would the Polish Government be prepared to submit its tariff to the GATT negotiation procedures? If so, would this be done when the tariff is still in draft form or only after it had been brought into force in accordance with constitutional procedures?

32. Would the duties in the tariff be specific or ad valorem? In the event that the customs tariff should include ad valorem duties, how would the Government of Poland propose to apply these in accordance with the principles of valuation set forth in Article VII of the GATT? What rate of exchange would be used for the conversion of foreign prices into Polish currency?

Sale of Imported Goods

33. What are the principles underlying the pricing of imported goods in Poland?

34. In their dealings with each other contracting parties with private enterprise economies are able to test whether quantitative restrictions leave genuine opportunities for selling and whether these are limited only by questions of competitiveness, because the only interference between traders in different countries is by government regulations which must be published if they affect international dealings between traders. If a global quota represented merely permission to import up to the amount provided for if sales could be negotiated (see 13 (b) above), would the
Polish Government be willing to give undertakings about the maximum mark-ups or the maximum re-sale prices to be applied to imports (see Article II (Schedules of Concessions), paragraph 4 and the interpretative notes)? For example, would the Polish Government be prepared to adopt the method followed by France in the 1947 tariff negotiations, in respect of imports of cigarettes by the French State Monopoly, and undertake to maintain a specific ratio between the prices of imported goods and like domestic products, or a maximum percentage mark-up on imported goods? If not, what other form of undertaking can the Polish Government suggest which would guarantee exporters in other countries that goods they sought to sell within a global quota would not be subjected to price discrimination on entry into Poland?

35. The Vice-Minister for Foreign Trade stated that, in attempting to compare prices of imported and domestic goods in Poland, it was inadvisable to take the import price expressed in foreign currency and to convert this by reference to the official exchange rate, because of the special considerations involved in fixing domestic prices in Poland. Contracting parties will readily understand the problems involved in (a) the special structure of domestic prices in Poland and (b) the exchange rates that prevail. But what alternative guarantee could the Polish Government give that the method she in fact applies does not favour domestic producers as against importers? What specific guarantees could the Polish Government offer to contracting parties to enable them to convince their exporters that if they were more efficient than (1) Polish producers or (2) producers in non-GATT countries, their goods would be correspondingly cheaper on the Polish market? What suggestions have the Polish Government to make about the appropriate conversion rate to be applied to import prices to enable exporters in other countries to compare effectively their own prices with those of like Polish products?

36. What measures would the Polish Government be prepared to take to ensure that the consumer in Poland would have freedom of choice between domestic and like foreign products? Would exporters in other contracting parties be free to advertise their products and make known their goods (e.g. by means of samples) to the Polish public? What steps would the Polish Government be prepared to take to see that these were not, as a result of the special price mechanism, sold at prices on the domestic market which would discourage demand?

37. Where a commodity is imported from several countries, would it be sold in Poland at a single price or at prices reflecting the differences in landed cost?

38. The Vice-Minister of Foreign Trade stated that certain reforms of the Polish economy are to be introduced and that these would eventually cover the system of internal prices. What are the reforms contemplated with respect to internal pricing?
Export Prices

39. Can the Polish Government provide a description of the pricing system as applied to goods for export? What is the relationship between export price and cost of production?

40. Contracting parties are entitled under Article VI to impose special duties on goods which are being dumped or whose export is being subsidized by another country. The test of dumping is normally that the goods concerned are being sold in the importing country at a price which is less than the comparable domestic price or, failing a comparable domestic price, lower than the highest comparable export price to a third country or the cost of production in the country of origin plus a reasonable addition for selling cost and profit. Where contracting parties received allegations from their own traders of dumping or subsidization of Polish exports they would wish to investigate such allegations as thoroughly as they would in the case of similar allegations affecting exports from a country with a private enterprise economy. The Polish Vice-Minister for Foreign Trade sees difficulties in the application of the official exchange rate to determine relative home and export prices. How far does the Polish Government see these or other difficulties as making it impracticable for contracting parties to exercise their rights under Article VI in relation to Polish exports? What suggestions have they to offer for meeting any difficulties they may see?

41. Would the Polish Government agree to have dutiable values of Polish products determined by reference to (a) the prices of like or directly competitive products being imported from other countries, or (b) the prices of like or directly competitive products in the importing country? Would it agree that dumping or subsidization could be presumed when the price of the Polish product proved to be considerably lower than the price under (a) or (b)?

42. Would the Polish Government be prepared to enter into negotiations concerning export prices, and to give undertakings regarding the level of export prices in order to avoid situations in which dumping might be shown to exist?

43. Would the Polish Government be prepared, upon request, to enter into bilateral negotiations with contracting parties for the establishment of minimum prices applicable to Polish goods on their importation into the territory of the contracting party concerned?

44. How would determinations be made, for the purposes of Article XVI, of the extent and nature of subsidization on products produced by, or traded in, by State enterprises in Poland? What information relating to the extent and nature of subsidization measures which operate either directly or indirectly to increase exports or reduce imports would be annually notified to GATT, together with the estimated effect of the subsidization, in accordance with Article XVI and the Decision of 2 March 1950?
45. Where subsidization measures caused or threatened serious prejudice to the interests of a contracting party would Poland be prepared to discuss with the contracting party concerned the possibility of limiting the subsidization as provided for in paragraph 1 of Article XVI?

46. Are any other export incentive measures in force such as special credit terms for exportation?

47. Is the difference between the cost of imported goods and the receipts from their sales in Poland used to subsidize production or export in order that products may be exported at prices lower than their domestic prices?

Other Questions

48. How would the Polish Government propose to comply with the provisions of Article XI which prohibits the establishment of export quotas?

49. How would the Polish Government propose to comply with the provisions of paragraph 6 of Article XV?

50. Would the Polish Government be prepared to accept that the provisions and procedures of Articles XXII and XXIII would be applicable to any disputes which might result from action by State enterprises in external trade?

51. To what extent is it possible for Polish enterprises or individuals to import directly without going through the intermediary of a State monopoly (or agency)? Is any change in the present regime contemplated?

52. Are any other reforms affecting international trade contemplated?

53. In private enterprise economies publication of customs tariff rates, combined with readily accessible information about exchange rates, production costs, etc., enables an exporter seeking markets in those countries to judge whether his prices are competitive with those of domestic products. Those responsible for Polish exports would have the advantage of such information in planning their trade with contracting parties. Would the Polish Government be prepared to undertake corresponding obligations under Article X in respect of the publication of all regulations affecting exports and imports? Would the Polish Government be prepared to undertake the normal obligations under Article XVII in respect of notification to the GATT of products whose import or export is handled by State-trading organizations and of the supply of information about their operations necessary to the carrying out of the Agreement? What statistics (including figures relating to internal production, production costs, retail prices, etc.) are at present published by the Polish Government? What supplementary statistical and other information on these matters would it be prepared to supply?
54. Article III of the GATT provides for national treatment with respect to internal taxation and regulations. Would the Polish Government make available to the contracting parties copies of its "laws, regulations and requirements affecting the internal sale, offering for sale, purchase transportation, distribution or use of products and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions" and information concerning the application of these laws, regulations and requirements?

55. Could the Polish Government furnish an English or French text of the Customs Law and the regulations relating thereto (including those relating to the handling of passengers' personal effects, household effects incidental to removal of residence, and mails, as well as the duty-exemption treatment for diplomatic officials), an explanation of the customs-clearing formalities (declaration, inspection, assessment, etc.) and a text of the laws, regulations and orders concerning the organization, authority and functions of the Central Customs Office and other customs agencies.