GENERAL AGREEMENT ON TARIFFS AND TRADE

Third Session of the Contracting Parties

Explanatory Background to Agenda for the Third Session of the Contracting Parties to the General Agreement on Tariffs and Trade

Note: This background for correspondents was written in advance of the action taken by the Contracting Parties to choose the items for inclusion on the agenda of the Third Session. The Contracting Parties will decide which items are to be included on their agenda and will authorize the release of the agenda.

The order of the items described below will probably be rearranged when the agenda is adopted.

On items 10, 11, 12, 13, 14 and 16, no detailed information has yet been made available by the Contracting Parties which have proposed these items.

1. Arrangements for the Conduct of the Tariff Negotiations beginning on 11 April, and the incorporation of the Results in the Agreement.

There will be two separate sets of meetings to be held at Annecy.

First, the Third Session of the Contracting Parties and secondly, the meetings connected with the tariff negotiations which will, it is expected, culminate in the accession of certain other governments to the General Agreement on Tariffs and Trade.

As regards the meetings connected with the tariff negotiations, it is expected that the participating countries will wish to set up:
(a) a Tariff Negotiations Committee on which all countries will be represented, and:

(b) a Tariff Negotiations Working Party to act as a Steering Committee. One of the duties of this Working Party would be to keep track of the progress of the tariff negotiations and, probably, to publish progress reports from time to time.

Both the Tariff Negotiations Committee and Working Party would meet in private.

2. The Import Restrictions imposed by the Union of South Africa.

On 12 November, 1948, the government of South Africa - South Africa being a Contracting Party to GATT - informed the other Contracting Parties that they had decided to impose certain import restrictions owing to South Africa's "continuing and increasingly high adverse balance of payments and the consequent serious decline in its monetary reserves."

These restrictions include prohibition on the import of certain luxury goods and a permit system for other imports.

These import restrictions were imposed in accordance with the provisions of Article XII of the GATT. The relevant part of Article XII states that no contracting party shall institute, maintain or intensify import restrictions except to the extent necessary "to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves". Before instituting such restrictions (or when prior consultation is impracticable, immediately after doing so), the contracting party will consult with the other contracting parties as to the nature of its balance of payments problems and the possible effect of its restrictions on the economies of the other contracting parties. Under Article XIV South Africa would be entitled to apply such import restrictions in a discriminatory manner provided that certain conditions were fulfilled.

When South Africa notified the Contracting Parties that it was imposing certain restrictions, the Chairman of the Contracting Parties consulted the International Monetary Fund in accordance with the arrangements for consultation between the Contracting Parties and the Fund on such matters.

The International Monetary Fund, in reply, agreed that the South African monetary situation was sufficiently serious to justify the immediate use of import restrictions.

The Contracting Parties will now, at their third Session, have consultations with the government of South Africa in accordance with Article XII (4) (a) of the GATT.
3. Questions arising on the Status of the Protocols

The Protocols of the GATT are additions to (or revisions of) the articles of the GATT. These additions and revisions were formulated at the first and second sessions of the Contracting Parties. Although most of the Protocols have entered into force and are binding on the countries which have accepted them, there remain certain Contracting Parties which have not yet accepted certain Protocols.

There are five protocols which have not yet been accepted by all the Contracting Parties. This is the reason for the agenda item dealing with the Status of the Protocols.

4. Report on Negotiations affecting the existing Schedules to the Agreement, arranged at the Second Session.

At their Second Session several Contracting Parties requested temporary release or waiver of obligations under GATT for reasons related to their particular economic problems. Several of the "releases" were then agreed on the understanding that there would subsequently be trade negotiations between the Contracting Parties concerned. This was to ensure that the contracting parties affected would have an opportunity to obtain compensation for their losses under the release or waiver.

The countries concerned with these negotiations are:

- Brazil - negotiations with United Kingdom and United States
- Ceylon - negotiations with several Contracting Parties
- Cuba - negotiations with the United States
- Pakistan - negotiations with four Contracting Parties.

The "Schedules" contain the rates of duty agreed upon as a result of the 1947 Genoa negotiations.

5. The Examination of Statements submitted in support of measures notified under Article XVIII.

Article XVIII of GATT recognizes the need for special measures "to promote the establishment, development or reconstruction of particular industries or branches of agriculture". This is a long and complicated article, dealing in detail with the kind of restrictions that may be used, the time limits on their use and various safeguards against their misuse.

The last paragraphs of the Article contain special provisions for the maintenance of existing measures as a transitional necessity. According to these, any contracting party, with the agreement of the other Contracting Parties, may maintain any non-discriminatory protective measure
(such as an import quota which "discriminates" as between the exporting countries) affecting imports in force on September 1, 1947, which has been imposed for the above-listed purposes (and which is not authorized in some other section of the GATT). The contracting party must notify the other Contracting Parties of the protective measure, of each product to which it applies, its nature and purpose. In addition the Contracting Parties must be given a "Statement of the considerations in support of the measure and the period for which it is intended to be maintained." Thereafter the Contracting Parties are required, under GATT, to give a decision on each measure as soon as possible and in any case not later than 12 months from the date on which the country applying the measure joins GATT.

At their Third Session, therefore, the Contracting Parties will be examining the measures notified to them, which have been received from the United Kingdom, the Netherlands, India, Chile, Cuba, Syria and Lebanon, in order to decide whether the interests of any contracting party are materially affected by any of the measures and whether the Contracting Parties agree to the maintenance of the measures.

6. The Interim Agreement for a Customs Union between South Africa and Southern Rhodesia.

A Customs Union (Interim) Agreement was concluded between the Government of the Union of South Africa and the Government of Southern Rhodesia on 6 December 1948. Under the terms of the Agreement, the two governments decided that the Agreement, would enter into force on 1 April 1949. The Agreement - in the view expressed by the two governments - "aims at facilitating the removal of all customs and other trade barriers between the two countries, and is the first step towards restoring the principle of free-trade."

Under Article XXIV of the GATT, any contracting party proposing to enter into a customs union shall consult with the other Contracting Parties and shall give them adequate information about the proposed union.

Article XXIV states further that no contracting party shall institute or maintain any interim agreement if, after studying the plan, the Contracting Parties find that a full customs union is not likely to result within a reasonable length of time. The reason for this is, of course, to ensure that new restrictions on trade or preferential treatment are not introduced under the guise of an interim customs union.

Under this item, therefore, the Contracting Parties will wish to examine the terms of the Interim Agreement for a Customs Union between South Africa and Southern Rhodesia to see that it is not at variance with the terms of the GATT.
7. **Report of the Committee on Special Exchange Arrangements**

The general purpose of the GATT is to reduce tariffs and ultimately to eliminate other barriers to trade. This process can, however, be negatived by a country which resorts to currency controls of various kinds. It is therefore essential that the Contracting Parties to GATT shall also adhere to the principles of the International Monetary Fund.

In order to deal with the situation arising when a Contracting Party is not a member of the Fund, Article XV requires that Contracting Party to conclude a Special Exchange Agreement with the Contracting Parties as a whole.

A Committee on Special Exchange Arrangements was appointed by the Contracting Parties at their second session to prepare the draft of an agreement between the Contracting Parties as a whole and those individual contracting parties which are not members of the Fund. This Committee, which has not yet completed its work, will present an Interim Report and will meet again at Annecy.

The following Contracting Parties and acceding countries are not members of the International Monetary Fund:

- Burma
- Ceylon
- New Zealand
- Pakistan
- Sweden
- Haiti
- Liberia
- Southern Rhodesia is not a member, but is represented by the United Kingdom.

8. **Rectifications requested by the Government of Brazil**

The Rectifications requested by Brazil refer to changes of detail in the Brazilian schedule of the GATT. The schedules of the GATT are the lists of tariff concessions, item by item, negotiated by each Contracting Party, at Geneva in 1947.

9. **Pakistan - Request for a Decision under Article XXIII concerning Rebate of Excise Duties on certain Products exported from India.**

At the second session of the Contracting Parties, at Geneva in August 1948, Pakistan asked for an interpretation of the Most-favoured-nation clause of GATT (Article I, paragraph 1). The request was made in reference to the government of India, which was not at that time allowing rebate of excise duty on exports of goods to Pakistan, while allowing rebate on similar exports to other countries. The Chairman of the Contracting Parties indicated that the most-favoured-nation clause could be applied to the particular instance brought up by Pakistan.

At that time the delegate of India reserved the position of the Indian government. In a subsequent communication to the government of Pakistan, the government of India declined to accept the claim that Pakistan was entitled to the same facilities in respect of rebate and export under bond as are granted to other countries, but said they would be prepared
to consider the matter as part of a comprehensive settlement.

Pakistan has referred this matter to the Contracting Parties at their Third Session, since in their opinion the government of India has failed to carry out its obligations under GATT and has applied measures which conflict with Article 1 of GATT.

10. The United States has proposed, for consideration, "Most-favoured-nation treatment for Occupied Areas."

11. Cuba has proposed, for consideration, "Adoption of Emergency Measures to resolve the Crisis of the Cuban Textile Industry."

12. Czechoslovakia has proposed, for consideration, "The Failure of the United States to carry out its obligations under the Agreement through its Discriminatory Policy in issuing Export Licences."

13. Consideration of Arrangements for a Third Set of Tariff Negotiations.

14. Australia has proposed, for consideration, to make certain changes in the GATT schedules to conform to the revised Australian valuations for duty which were changed subsequent to the Geneva negotiations.

15. The Director General of UNESCO has asked the Chairman of the Contracting Parties that the Contracting Parties should:

   (a) include educational, scientific and cultural materials in their negotiations, and

   (b) advise UNESCO on the text of an Agreement on the importation of books, newspapers and periodicals.

16. Czechoslovakia has proposed that the position of Palestine in relation to the General Agreement should be considered. The United Kingdom made effective the provisional application of the Agreement in respect of Palestine as from 19 April 1948. But the United Kingdom ceased to be responsible for the government of Palestine on 15 May, 1948, on the termination of the League of Nations mandate.