RELATIONS BETWEEN POLAND AND THE CONTRACTING PARTIES

on his talks with the Polish authorities

1. At the request of the Polish Government the Deputy Executive Secretary visited Warsaw in February last to give the Polish authorities some precise indications concerning the meaning of certain provisions of the General Agreement and the accession procedures followed by GATT. During the conversations it appeared that the accession of Poland would necessitate the application of methods somewhat different from those that had been used in the past and the exchange of views which took place in this respect led the Polish authorities to take account of this factor.

2. The first point which arose was the question whether the Polish Government was considering participating in GATT activities with the special status of an associated member or whether it was in their interest to seek straightforward accession under Article XXXIII of the General Agreement. The Deputy Executive Secretary indicated to the Polish authorities that while the General Agreement did not provide for special status as associated member no provision of the Agreement, however, prevented the CONTRACTING PARTIES if they so wished from conferring such status upon a specific country. That was in fact what the CONTRACTING PARTIES did in the case of Japan and what they contemplate doing as far as Switzerland is concerned. In the case of Japan, this was an interim measure which promptly led to full accession. In any case Japan had not intended to limit its commitments vis-à-vis other contracting parties and had fully accepted its obligations under the General Agreement. In the case of Switzerland, difficulties had arisen as the result of the domestic legislation relating to the protection of agriculture, but apart from this particular difficulty that country was prepared to accept all the obligations imposed by the General Agreement. It appeared to the CONTRACTING PARTIES that Poland was envisaging a different form of association along the lines of the status of associated members as provided for in the OTO Agreement.

3. The Polish authorities made it clear that the Polish Government wishes to be associated with GATT activities not only in order to participate in the work of the institution but also with a view to securing practical advantages as far as its export trade is concerned. Consequently, they believe it is essential that as a result of such association Polish exports should at least receive the same tariff treatment as exports of present contracting parties. If the status of an associated member was not to yield such results the Polish Government would be prepared to renounce this formula and to envisage accession under the terms of Article XXXIII of the General Agreement.

4. The Polish authorities then requested the Deputy Executive Secretary to indicate what procedures would have to be followed in order to accede under Article XXXIII. The Deputy Executive Secretary indicated that hitherto accession to the General Agreement had always been made subject to the successful conclusion of tariff negotiations between the acceding government and the contracting parties. Therefore, the accession of Poland could not merely result from a decision of the contracting parties; it would have to be preceded by negotiations along the lines of those which took place at Geneva, Annecy and Torquay.

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5. In the past such negotiations concerned almost exclusively customs duties. However, where customs duties were not the only means of protection because there were import monopolies, the negotiations were intended to limit or reduce the non-tariff obstacles to trade which may result from the operation of such monopolies. Thus, for instance, in the case of the 1947 negotiations with the French Government, two methods were used with respect to French import of tobacco and cigarettes. On the one hand, the French Régie undertook to import every year minimum quantities of leaf tobacco originating in territories other than the French Union and on the other hand they committed themselves not to exceed a certain ratio between the sales price on the French market of imported cigarettes and the price of French cigarettes of comparable quality. Such methods of negotiation are in fact expressly provided for under Article XVIII, paragraph 3 (Revised), in the interpretative note relating to this paragraph and in the interpretative note to paragraph 4 of Article III (Revised) of the Agreement.

6. Tariff negotiations with a view to accession have in the past included two fairly distinct stages. First, the CONTRACTING PARTIES requested the acceding government to grant concessions of a value equivalent to the advantages that the acceding country was reaping for its export trade as a result of accession. Upon becoming a contracting party, the acceding government automatically secures unconditional advantages of most-favoured-nation treatment. Furthermore, it secures the contractual right to enjoy all the concessions previously negotiated under the General Agreement. Even where the acceding government was already enjoying most-favoured-nation treatment, the conversion of this precarious right into a contractual right under the terms of Article III (Revised) of the Agreement constitutes a positive advantage in return for which some counterpart is called for. That part of the negotiations results, therefore, in the acceding country paying an entrance fee equivalent to that which other contracting parties themselves had paid on previous occasions. Secondly, the acceding country and the other contracting parties have often decided that they would not limit themselves to holding such negotiations for that specific purpose and that they should take advantage of the opportunity to exchange additional balanced concessions.

7. The Polish authorities indicated clearly that they did not intend to enter into additional negotiations and stated that if Poland decided to accede to the Agreement the negotiations should be limited to the determination of the so-called entrance fee. In view of the fact that Poland, like many other countries at the present time, requires considerable imports of foreign products and that her currency availabilities, in particular her export proceeds, are not adequate to meet her import requirements, the Polish authorities had thought that in these circumstances an improvement in Poland's position as an exporter would result in increased imports, which would constitute adequate counterpart for the granting of most-favoured-nation treatment and that specific negotiations would not be essential in order to ensure normal outlets for the trade of the contracting parties. However, the Polish authorities appreciate that other contracting parties may wish to obtain certain guarantees to ensure outlets for any individual products which may be of particular interest to the exporters. They therefore agreed that the scope and methods of the negotiations should be examined further.
8. In view of the fact that Poland does not at present have a customs tariff, negotiations could not be directed towards the granting of concessions on existing Polish duties. Furthermore, the Polish Government intends to introduce a customs tariff in the near future. The Polish authorities could not, therefore, undertake any precise commitments as regards the future tariff level, either by binding the present de facto exemption from customs duties or by fixing a theoretical ceiling for certain duties. In any case, even if such negotiations could be initiated, in all likelihood the CONTRACTING PARTIES would be of the opinion that tariff concessions would be of little interest in view of the fact that the import trade is conducted through the operation of a State monopoly. It is, therefore, probable that the CONTRACTING PARTIES, if they decide to initiate negotiations with Poland, would prefer to use the negotiation procedures referred to in the note to paragraph 4 of Article III. On the basis of existing precedents, the Deputy Executive Secretary suggested that the method of negotiation which would naturally come to mind is that which was applied in the case of French imports of leaf tobacco. Under this formula the Polish Government could accept a commitment to import annually specific quantities of certain products. Contrary to the bilateral agreement system, this commitment would not be undertaken in regard to any individual contracting party but would take the form of a global quota which would subsequently be allocated among the interested contracting parties according to the methods specified in Article XIII of the General Agreement with a view to ensuring compliance with the principle of non-discrimination.

9. The Polish authorities then enquired whether these quantitative commitments should be regarded as absolutely firm commitments or could be qualified in any manner to take account of the Polish balance-of-payments difficulties. The Deputy Executive Secretary indicated that the French quantitative commitments relating to tobacco imports had been undertaken "subject to the application of the provisions of Articles XII and XIV of the General Agreement on Tariffs and Trade" and that the Polish Government could no doubt invoke this precedent. However, this is an important and complex matter which would have to be examined in detail with the governments concerned.

10. The Polish authorities also asked whether these global quotas should be based on actual imports and be applied with respect to the whole or a substantial part of Polish import trade. The Deputy Executive Secretary observed that if negotiations were to be limited to an attempt to find an equivalent counterpart for the advantages that Poland would reap from accession as a result of tariff concessions previously negotiated under GATT, the number and scope of such quantitative commitments would have to match the value of the benefits which Poland would secure. Poland and the contracting parties concerned would have to determine the equivalent counterpart. In view of the fact that the Polish export trade is limited to a certain number of products and that the incidence of tariff concessions on trade expansion is limited in many cases, the contracting parties may limit their requests to a small number of items and may fix quotas at a lower level than the actual import level, as determined on the basis of Polish import trade flows in recent years. In this case quantitative commitments would constitute a safeguard against a possible decline in imports. On the other hand, as negotiations under the General Agreement are conducted on a selective basis it would always be open to Poland to refuse to negotiate on a
given item so long as she offered concessions on other items that could be regarded by her negotiating partners as acceptable and equivalent conditions. It would be difficult to assess what should be the exact scope of the necessary counterparts to be offered but the Polish authorities intend to study existing concessions and to assess the value of such concessions to their export trade so as to form an idea of the order of magnitude of the quantitative commitments which the contracting parties would request.

11. The question was also raised of the extent to which quantitative commitments could be reconciled with bilateral agreements as at present operated by Poland. The Deputy Executive Secretary observed that while the main objective of the General Agreement was to ensure multilateral trade, the absence of convertibility had led the International Monetary Fund and consequently the General Agreement to show some flexibility towards those bilateral agreements that are justified by monetary considerations rather than strictly commercial considerations. A number of contracting parties still conduct part of their international trade under bilateral agreements, though the present trend is towards the elimination of such agreements. Indeed, the trend towards increased multilateralism has been apparent also in the trade of Poland with other countries. These problems would have to be examined further with the other countries concerned but it does not seem that the multilateral commitments in the sense of the note to paragraph 4 of Article III would necessarily raise obstacles to the operation of bilateral agreements to the extent that such agreements conform with the provisions of Article XIV of the GATT and the corresponding provisions of the Fund's Articles of Agreement. For instance, it can be envisaged that Poland might commit herself under bilateral agreements to import quantities in excess of those laid down in the General Agreement provided, however, that any additional quotas should be allocated among the countries concerned in accordance with established GATT methods.

12. The Polish authorities asked for certain clarifications concerning the other method which is envisaged by the General Agreement and which has been followed in particular in the case of imports of foreign cigarettes into France. The Deputy Executive Secretary explained that the purpose of this method was to prevent manipulation of sales prices on the domestic market as a method of indirect protection which could nullify commitments relating to minimum quantities to be imported or could in any case hamper imports over and above such minimum quantities. The price margin in the case of the monopoly can be determined in several manners. It is possible to envisage a system under which the monopoly purchase price could be only increased within the limits of a maximum percentage for internal sales. Furthermore, it is also possible to envisage, as in the French case mentioned above, a standard ratio between the sales price of the imported product and that of the like domestic product. Other intermediary formulae can also be envisaged. The Polish authorities observed that commitments of that kind seemed unnecessary in the case of Poland because generally the sales price of imported products operated to stimulate rather than reduce consumption. Furthermore, it is in the interest of State monopolies promptly to sell all the quantities imported. In view of the special pricing system in Poland it may be difficult, at least for the time being, to resort to this particular method of negotiation. The intention of the Polish Government is, when an up-to-date tariff has been introduced, to absorb the price difference
through customs duties and to apply the same principles and the same margin of profit to sales of imported products and domestic products alike. Without undertaking any commitment the Polish Government, however, is prepared to investigate very thoroughly this method of negotiation. Lastly, the Polish authorities are of the opinion 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. This would be particularly appropriate in cases where external trade was liberalized so as to permit direct imports by State-trading enterprises and not through an import monopoly.

13. After examining methods of negotiation proper, it appeared useful briefly to review the general provisions of the Agreement in order to ascertain whether in the case of Poland the application of such provisions would raise special difficulties. As regards the application of the most-favoured-nation provisions in the tariff field, the Polish Government is of the opinion that the problem does not arise at present considering that duty-free admission is accorded to all products originating in or coming from any country. The Polish Government clearly intends upon the introduction of the customs tariff to levy customs duties on products from all countries and to apply the new rates regardless of origin. Therefore, in their opinion the application of the provisions of Article II (Revised) of the Agreement is not likely to be a controversial issue. As regards the rule of non-discrimination, the existence of bilateral agreements and the trade relations between Poland and other Eastern European countries might give rise to some concern on the part of the contracting parties, but the Polish Government would be prepared to undertake to accord to imports from contracting parties to GATT treatment no less favourable than that accorded to imports from other trade partners, as could be ascertained on the basis of statistics.

14. An exchange of views also took place concerning the problem of export prices. Under the General Agreement, the most-favoured-nation treatment provisions may be waived where the price of an exported product is less than the comparable price for the like product when destined for consumption in the exporting country or for export to any third country, or is less than the cost of production plus a reasonable addition. The application of the provisions of Article VI of the General Agreement has given rise to some difficulties, in particular with respect to products originating in a country where the pricing system differs from the system followed in the countries of free enterprise. The Polish authorities stressed that Poland was interested in earning as much foreign currency as possible through exports and that, therefore, her export corporations attempted to sell Polish exports at world prices. Without denying that errors may result from a lack of concordance between the internal pricing system and the formation of international prices, the Polish authorities do not believe that serious difficulties will arise in view of the composition of Polish exports. In any case, the Polish Government is studying the pricing system as a result of which it may be led to take measures which would minimize any difficulties which may at present arise in isolated cases.

15. The Polish authorities have noted the explanations which have been supplied in the course of informal conversations and without involving any commitment on the part of the governments which are parties to the Agreement. These conversations were all of a preliminary nature and were solely intended to enable the Polish Government, before taking any official steps, to appreciate better the practical problems which may arise.