

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES  
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## ASSURED LIFE OF TARIFF CONCESSIONS WITH REGARD TO ARTICLE XIX

### Additional Item for the Agenda proposed by the Delegation of Czechoslovakia

#### I

Article XIX gives a contracting party the right to withdraw, in the case of emergency, tariff concessions granted in respect of certain products. The provisions of this Article cannot, however, be interpreted in the sense that it is sufficient for a contracting party to announce that an emergency has arisen. This emergency must be qualified in accordance with the stipulations of paragraph 1 of Article XIX and must be fully proved. Any other interpretation of Article XIX may threaten the very foundations of the General Agreement, as there would be no certainty in effect as to the assured life of the existing tariff concessions. Article XIX is an exceptional measure and must, therefore, be interpreted restrictively. It is therefore the opinion of the Czechoslovak Delegation that provisions of Article XIX may be applied only if all conditions of paragraph 1 of Article XIX have been fulfilled. Paragraph 1 of Article XIX requires:

1. unforeseen development
2. products being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers.

Both these conditions must be fulfilled together and only after their genuineness has been fully established may the provisions of Article XIX be applied.

#### II

In the United States of America the Havana Charter came in for strong criticism because it was supposed to contain too many exceptions. And now the United States is appealing to one of these exceptions which was devised for completely different circumstances. The United States Delegation has announced that, with reference to Article XIX of the Agreement, the United States of America as from December 1st is withdrawing the concessions granted on ladies' felt hats (see Document GATT/CP/83).

According to paragraph 1 of Article XIX this action would be justified

"if as a result of unforeseen development and of the effect of the obligations incurred by a contracting party under this agreement any product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers".

According to "Reports of Committees and Principal Sub-Committees" (page 83) drawn up at Havana, "There would, however, have to be a relationship of cause and effect between the increase in imports resulting in injury and the obligations assumed by Members..."

The United States Delegation has included in Document GATT/CP/83 a table showing that the export of hats to the United States has increased. However, the increase of exports alone does not justify the application of Article XIX as increase of exports is the primary aim of the Agreement. Furthermore, the increase of exports is a development foreseen by the Agreement and cannot be regarded as an "unforeseen development" as stipulated in paragraph 1 of Article XIX. The United States Delegation has not proved that the conditions of Article XIX have been fulfilled. It is necessary to point out that when the question of tariffs of Cuba was being discussed at Annecy or when there was any discussion of the measures adopted by countries under the terms of Article XVIII or when negotiations took place on the so-called Swiss reservations, the United States Delegation always asked for all possible data on the extent of the manufacture, on the manufacturing expenses, the number of workers, etc. We maintain that it is the duty of the United States Delegation to prove that the import takes place "... under such conditions as to threaten domestic producers" and that the present tariffs are the cause of difficulties which may arise. We further maintain that it is not sufficient that the United States Delegation should limit itself to a single fact, i.e., the statement that the imports to the United States are rising, because, after all, the General Agreement aims at the extension of trade.

### III

Since the customs reductions agreed upon at Geneva in respect of item 1526 (a) the tariffs have been 55% and 47 $\frac{1}{2}$ % ad valorem. It cannot be disputed that these are tariffs which, particularly in a country of such high industrial development as the United States, are enormous and provide sufficient protection. These tariffs, even though reduced, are, in themselves, at direct variance with the fundamental purpose of the Agreement, i.e., "a substantial reduction of tariffs".

In order to judge the extent of the customs protection in the United States on hats, we have selected analogous customs items of other countries as set forth in the documents of the Agreement. For the sake of simplicity and easier comparison, we have taken into account only countries whose tariffs are expressed ad valorem. The result is as follows:

Australia .....	45%
Benelux .....	20%
Canada .....	22 $\frac{1}{2}$ %
Ceylon .....	22%
Cuba .....	20%
France .....	14 - 25%
Pakistan .....	20%
The South African Union .....	25%
Great Britain .....	25%
Sweden .....	15%

It will be seen that all these tariffs are substantially lower than the one now current in the United States. And yet, not even this enormous customs protection is enough for the vested interests in the United States which are demanding an increase equal to about 70% on the value of the goods, which is at variance with all the fundamental principles of the Agreement.

It is, therefore, quite obvious that neither the low tariffs nor an increased import are the reasons for the difficulties of the American hat industry, if these difficulties exist at all. In the United States the necessity for an increased import and the abolition of "less efficient" industries is being demanded. In the Charter for World Trade by Clair Wilcox, page 192, we read:

"The real danger that faces us is not that we shall import too much but that we shall import too little..... We must permit foreign goods to displace domestic goods in our market; our less efficient producers must shift to other products or other industries."

It is beyond dispute that the industry of a highly developed country which cannot make headway with the protection of tariffs amounting to  $47\frac{1}{2}$ -55% must be regarded as "highly inefficient" and its difficulties, if there are any, are in no way related to the reduction of tariffs as even these reduced tariffs are enormous and the highest existing.

There being no relationship of cause and effect between the existing tariffs and the difficulties indicated by the United States Delegation, Article XIX cannot be applied.

In conclusion, it can be said that the conditions of paragraph 1 of Article XIX have not been fulfilled as there has been no unforeseen development since the signature of the Agreement and products are not imported under such conditions as to cause or threaten serious injury to domestic producers. In view of this the Czechoslovak Delegation proposes that the Contracting Parties place on record that the unilateral action of the United States is not in accordance with the stipulations of Article XIX and recommend that the United States Government revoke its intention in view of the serious consequences which its steps may have on the whole Agreement.