

M-294

No. 814.II. e) SPECIAL PROTOCOL¹ RELATING TO ARTICLE XXIV OF THE GENERAL AGREEMENT² ON TARIFFS AND TRADE. SIGNED AT BUVINA, ON 31 MARCH 1948

The Governments of the Kingdom of Belgium, Canada, the Republic of Cuba, the French Republic, the Grand-Duchy of Luxemburg, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are provisionally applying the General Agreement on Tariffs and Trade pursuant to the Protocol of Provisional Application,

HAVING APPROVED the amendment to Article XXIV of the General Agreement on Tariffs and Trade which was drawn up at the First Session of the CONTRACTING PARTIES to that Agreement and which reads as follows:

"I. Article XXIV of the General Agreement on Tariffs and Trade shall read as follows:

"Article XXIV

"TERRITORIAL APPLICATION — FRONTIER TRAFFIC — CUSTOMS UNIONS AND FREE-TRADE AREAS

"1. The provisions of this Agreement shall apply to the metropolitan customs territories of the contracting parties and to any other customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application. Each such customs territory shall, exclusively for the purposes of the territorial application of this Agreement, be treated as though it were a

¹ Came into force on 7 June 1948, by deposit of instruments of acceptance by two-thirds of the Contracting Parties, pursuant to the terms of the Protocol.

States which deposited instruments of acceptance and the dates of such deposit:

Belgium	7 June 1948	Luxembourg	24 May 1948
Canada	1 June 1948	Netherlands	29 May 1948
China*	27 May 1948	Norway	25 November 1949
Cuba	27 May 1948	Pakistan	9 September 1949
Czechoslovakia	29 May 1948	Southern Rhodesia	18 April 1950
France	14 June 1948	Syria	24 May 1949
India	31 March 1949	United Kingdom of Great Britain	
Lebanon	1 May 1950	and Northern Ireland	17 May 1948
		United States of America	27 May 1948

Chile is bound by this Protocol as from 16 March 1949, by virtue of her signature on 14 February 1949 of the Protocol for the Accession of Signatories.

* See note concerning China in footnote 1 on page 24.

² United Nations, *Treaty Series*, Volume 55, page 194.

contracting party; *Provided* that the provisions of this paragraph shall not be construed to create any rights or obligations as between two or more customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application by a single contracting party.

"2. For the purposes of this Agreement a customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories.

"3. The provisions of this Agreement shall not be construed to prevent:

"(a) advantages accorded by any contracting party to adjacent countries in order to facilitate frontier traffic;

"(b) advantages accorded to the trade with the Free Territory of Trieste by countries contiguous to that territory, provided that such advantages are not in conflict with the Treaties of Peace arising out of the Second World War.

"4. The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the parties and not to raise barriers to the trade of other contracting parties with such parties.

"5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; *Provided* that:

"(a) with respect to a customs union, or an interim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in

the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

“(b) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free-trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement, as the case may be; and

“(c) any interim agreement referred to in sub-paragraphs (a) and (b) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.

“6. If in fulfilling the requirements of sub-paragraph 5 (c), a contracting party proposes to increase any rate of duty inconsistent with the provisions of Article II, the procedure set forth in Article III¹ shall apply as provided for compensatory adjustment, due account shall be taken of the compensation already afforded by the reductions brought about in the corresponding duty of the other constituents of the union.

“7. (a) Any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the CONTRACTING PARTIES and shall make available to them such information regarding the proposed union or area as will enable them to make such reports and recommendations to contracting parties as they may deem appropriate.

“(b) If, after having studied the plan and schedule provided for in an interim agreement referred to in paragraph 5 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of sub-paragraph (a), the CONTRACTING PARTIES find that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one, the CONTRACTING PARTIES shall make recommendations to the parties to the agreement. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.

“(c) Any substantial change in the plan or schedule referred to in paragraph 5 (c) shall be communicated to the CONTRACTING PARTIES, which may request the contracting parties concerned to consult with them if the change seems likely to jeopardize or delay unduly the formation of the customs union or of the free-trade area.

“8. For the purposes of this Agreement:

“(a) A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that

“(i) duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,

“(ii) subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union;

“(b) A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

“9. The preferences referred to in paragraph 2 of Article I shall not be affected by the formation of a customs union or of a free-trade area but may be eliminated or adjusted by means of negotiations with contracting parties affected. This procedure of negotiations with affected contracting parties shall, in particular, apply to the elimination of preferences required to conform with the provisions of paragraph 8 (a) (i) and paragraph 8 (b).

“10. The CONTRACTING PARTIES may by a two-thirds majority approve proposals which do not fully comply with the requirements of paragraphs 5 to 9 inclusive, provided that such proposals lead to the formation of a customs union or a free-trade area in the sense of this Article.

"11. Taking into account the exceptional circumstances arising out of the establishment of India and Pakistan as independent States and recognizing the fact that they have long constituted an economic unit, the contracting parties agree that the provisions of this Agreement shall not prevent the two countries from entering into special arrangements with respect to the trade between them, pending the establishment of their mutual trade relations on a definitive basis.

"12. Each contracting party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory."

"II. The Interpretative Notes to Article XXIV in Annex I of the General Agreement on Tariffs and Trade shall read as follows:

"ad Article XXIV

"Paragraph 5

"It is understood that the provisions of Article I would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is re-exported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and the most-favoured-nation rate.

"Paragraph 11

"Measures adopted by India and Pakistan in order to carry out definitive trade arrangements between them, once they have been agreed upon, might depart from particular provisions of this Agreement, but these measures would in general be consistent with the objectives of the Agreement."

CONSIDERING that, in accordance with Article XXX of the General Agreement on Tariffs and Trade, the aforesaid amendment will become effective, in respect of those contracting parties which accept it, upon acceptance by two-thirds of the contracting parties,

AGREE to deposit before June 1, 1948 their instruments of acceptance of the aforesaid amendment with the Secretary-General of the United Nations.

The original of this Protocol shall be deposited with the Secretary-General of the United Nations, who is authorized to effect registration thereof.

IN WITNESS WHEREOF the respective representatives, duly authorized, have signed the present Protocol.

DONE at Havana, in a single copy, in the English and French languages, both texts authentic, this twenty-fourth day of March, 1948.

- For the Kingdom of Belgium: Pour le Royaume de Belgique:
M. SUTENS
- For Canada: Pour le Canada:
L. D. WILGESS
- For the Republic of Cuba: Pour la République de Cuba:
GUSTAVO GUTIÉRREZ
- For the French Republic: Pour la République française
Jean ROYER
- For the Grand-Duchy of Luxemburg: Pour le Grand-Duché de Luxembour:
J. WOULBROUN
- For the Kingdom of the Netherlands: Pour le Royaume des Pays-Bas:
A. B. SPEEKENBRINK
- For the United Kingdom of Great Pour le Royaume-Uni de Grande-
 Britain and Northern Ireland: Bretagne et d'Irlande du Nord:
Stephen L. HOLMES
- For the United States of America: Pour les Etats-Unis d'Amérique:
John W. EVANS
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