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SWISS MERCANTILE SOCIETY.

On Wednesday, 9th April, Monsieur Hans Müller, Attaché at the Swiss Embassy, gave a very concise talk on the new Swiss Customs Tariff. This subject being, no doubt, of great interest to the commercial community, we have much pleasure in publishing his address *in extenso*.

PART I.

To-day's Customs System.

(1) THE EXISTING TARIFF.

(a) *Historical survey — The legal basis.*

A brief historical survey will serve as introduction and may help you to understand how the present customs system of our country came into being.

Already in the 17th and 18th centuries the more important countries in Europe had devised all sorts of measures to protect the development of their manufactures, and were in particular trying to shelter them from foreign competition by introducing high customs duties. But the Old Confederation hardly felt the influence of European mercantilism. Much varied as they were, customs practices had at least one characteristic common to all the cantons: the duties were levied solely for fiscal and not for protectionist purposes, and they remained relatively low right until the end of the 19th century. This corresponded to the concept of free trade, which found many adepts in Switzerland and became the cornerstone of our trade policy.

Many attempts were made to unify the customs law: under the Helvetic Constitution, the Mediation Act, the Tariff of 1st December 1813 (drafted after Napoleon's downfall), the Federal Pact of 7th August 1815. But it was not until 1848 that customs unification, extending to the whole of the Swiss territory, could be achieved. As under the new Constitution the conclusion of treaties with foreign countries became the prerogative of the Confederation, the right conditions for common customs and economic policies at last came into existence.

The first Swiss Tariff was embodied in the customs law of 30th June 1849, and derived entirely from free trade ideas.

It came to light, however, that this tariff, whose sole purpose was to provide fiscal revenue, constituted a very poor bargaining weapon when it became necessary to negotiate reductions in foreign duties,

which often were so very much higher. But it was only in 1885 that a revised tariff, which was the result of a more systematic customs policy, entered into force.

About 1900, upon the termination of several trade agreements, the Federal Council decided to revise the tariff yet once more. The general tariff of 10th October 1902 was the result; a popular votation showed it to have won the Swiss people's confidence and it subsequently proved its worth in negotiations with many countries. This tariff of 1902 remained unchanged until the economic upheaval, that followed the first world-war, made certain modifications necessary (1920).

An emergency Federal Decree of 18th February 1921 then authorised the Federal Council to adjust provisionally the rates of duty of the tariff to the prevailing economic conditions and to put these new rates into operation at an appropriate date.

Already during the depression of the thirties a new evolution became apparent in international commercial policy, as a result of which the importance of customs duties receded into the background. A system of physical import restrictions and of exchange control crept up insidiously and, as it gained more and more ground, began to hamper trade far more than customs barriers had ever done. Switzerland could not remain aloof from this development; she had to conclude bilateral agreements providing for quotas and payments facilities.

It has taken the strenuous efforts of international organisations, in particular of the Organisation for European Economic Co-operation, to put back some life into international trade and to remove to a large extent the restrictions on imports and in currency matters. But precisely because that has been achieved, customs duties have now regained their former importance, and the time has thus come to carry out the revision of the tariff foreseen in the decree of 1921.

(b) *Basis, structure, technical aspect and nature of the tariff.*

Two federal laws provide the basis for the Swiss customs system. The customs law lays down the general basis for customs levies; the customs tariff law has for its core the tariff itself and contains different provisions — in particular on the calculation and assessment of duties — which are closely concerned with its application.

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From the technical point of view, the tariff is a systematic list of all the goods likely to be the object of trade, and it provides the basis on which duties are levied.

The different tariff positions are numbered and grouped according to their appurtenance into determined sections (categories), chapters and groups of merchandise. For each position the rate of duty is indicated in a special column, in francs, per quantitative unit (weight, piece, litre, metre).

The tariff of 1902 (1921) contains 15 categories and 1,164 basic positions.

From the legal angle, a customs duty is an impost (almost sixty per cent of the customs duties have a fiscal character.) In accordance with article 30, paragraph 1, of the Federal Constitution, the produce of this impost is paid into the federal exchequer. It would, however, be a mistake to consider customs duties solely from the fiscal point of view, for they fulfil extremely well other economic functions, as will be seen later.

The present tariff and its predecessors have all belonged to the category of so-called "specific" tariffs, where the duties are calculated according to the weight, the number or the volume of the goods imported, and not according to their value as in the ad valorem system adopted in most other countries.

(2) WHY DO WE NEED A NEW TARIFF?

Anyone approaching the problem of the Swiss tariff revision from the outside may well ask himself why Switzerland should be needing a new tariff at a time of unprecedented economic prosperity and at the very dawn of a new era in trade policy.

When there is so much talk of abolishing customs barriers in Europe, when a Common Market is being created and a Free Trade Area being planned, must there be a re-orientation of the Swiss commercial policy, at present one of the most liberal in the world? There is really no ground for anxiety on this score.

Unlike what happened in 1921, it is not chiefly the internal economic conditions that call for a new tariff. But it is precisely because international developments in the economic field, trade relations between countries and new trends are being taken into account that our tariff must be renewed.

It is being revised with the following aims in view:

(a) *Adaptation of the out-of-date terminology.*

The revision, which began in 1952, is mainly motivated by technical grounds. The present classification and nomenclature date from the year 1902 and therefore lag far behind economic and technical developments.

That shows, on the one hand, in that a large number of goods are not even listed anywhere and have had to be classified, through administrative orders, under more-or-less suitable positions, which correspondingly affect the readability and the interpretation of the tariff. On the other hand, this technical backwardness of the tariff has had for a result that branches of production which have meanwhile sprung up or developed cannot be charged such duties as would be economically and financially desirable.

True it is, that the original nomenclature was adapted to new circumstances in the revision of 1921, and since then through over one hundred administrative amendments. In addition the tariff

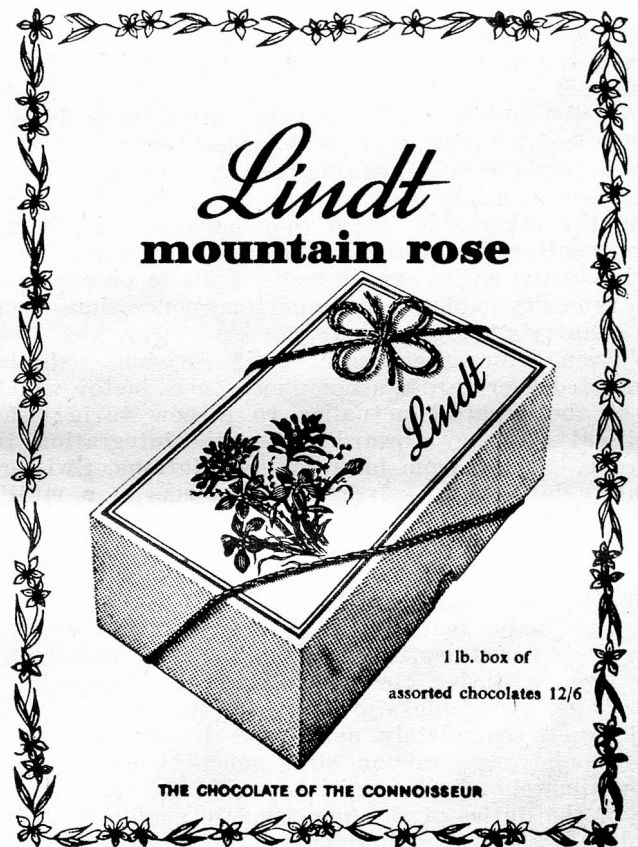
contains about 2,700 individual rulings on goods classification, explanatory notices and examples. Yet the tariff has not succeeded in keeping in step with progressive technical developments.

The call for a modern tariff arises from the pressing claims of equitable taxation and practical application of customs charges.

Of particular importance to Switzerland is the European Agreement on Nomenclature. It places the member countries under the obligation to harmonise their tariffs with the so-called Brussels nomenclature. Some countries, France among them, already use this nomenclature; others, like the remaining members of the Common Market as well as Great Britain and Austria, are in the process of introducing it. In order not to anticipate the tariff revision, Switzerland has not yet signed this agreement, but she is adopting the Brussels nomenclature in this revision.

(b) *Putting the customs tariff on a proper constitutional basis.*

The tariff at present in force dates from 1921. It was a revision undertaken on the basis of emergency federal decrees giving the Federal Council full powers to adjust customs duties until a new revised law concerning the Swiss tariff could be enacted. Provisional measures have thus remained valid for 36 years. If ever proof was needed of the saying "Il n'y a que le provisoire qui dure", this is it. It will be obvious to all that one of the aims of the current revision is to give a less precarious legal standing to the customs tariff.



(c) Re-assessment of the rates.

As soon as the revision work began it became apparent that a fundamental re-evaluation of the duty rates would be justified in view of the steady monetary depreciation that had taken place since 1921. The rate increases are thus mostly explained by this effort to restore customs charges to a certain extent to their former level of efficiency.

Another influence on the tariff revision has been the part that customs duties play in trade policy. The growth of new and steeply higher tariffs in the countries which are Switzerland's main markets has induced us to reconsider our own defences.

(d) Protective duties (to improve in certain sectors the protection afforded to home products).

Demands for more protection are also made again and again by industries or trades working mainly for the home market.

Reasons prompted by protectionist considerations nevertheless form but a modest part of those underlying the revision of the tariff. Specific duties (as provided by the current tariff) have indeed this peculiarity, that the customs protection they afford decreases as prices go up. In a certain sense the intention is also to restore the measure of protection originally sought in 1921.

(e) Fiscal motives.

The consideration of another aspect of the tariff revision has so far been treated with particular reserve, namely the fiscal aspect. Plans for the reform of the federal finances have never taken any account of possible higher customs revenue. The fiscal outcome of the revision is officially regarded simply as a welcome windfall for the Confederation. Thus the present revision has had practically no fiscal motives.

(f) A negotiating tariff.

Above all, the tariff is being revised with the aim of furnishing the Swiss Government with an efficient bargaining weapon in its negotiations with foreign countries.

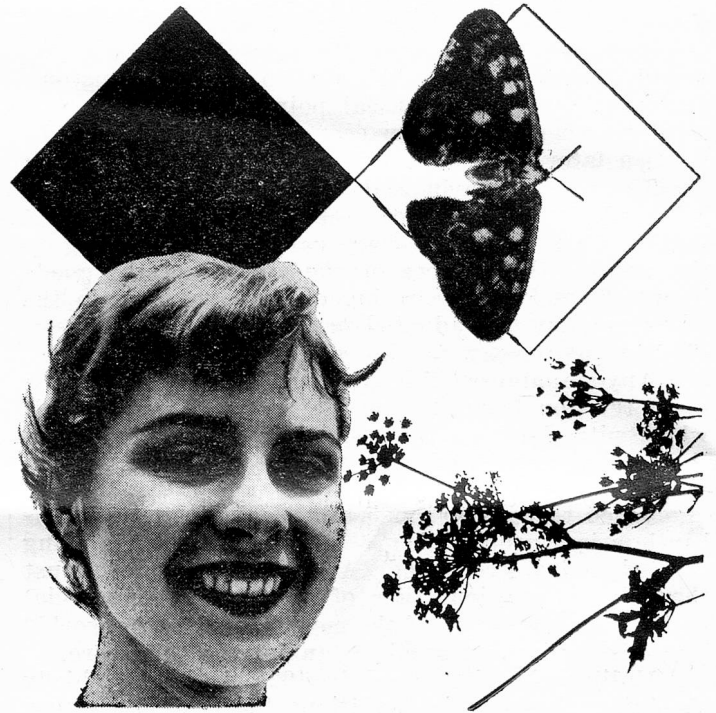
Switzerland's trade partners often have highly protectionist tariffs. In such cases her negotiators who have the task of opening export markets to Swiss goods are at a loss to know how to obtain concessions from the other side, since they have practically no compensating advantages to offer. The present prosperity of the Swiss export trade tends to obscure the real necessity to obtain many customs concessions from the country's trade partners.

Even before the present tariff revision could be completed there arose a completely new factor which is of the greatest actuality to a new tariff: the political tendency towards economic integration in Europe. Apart from bilateral negotiations, Switzerland to-day has to solve tariff problems of a multi-lateral nature in connection, firstly, with GATT (the General Agreement on Tariffs and Trade), and, secondly, with the Free Trade Area of the OEEC, and with the six members of the Common Market.

The main feature of this integration is the lowering of customs barriers. And, with her current low level of duties, Switzerland now finds herself in a very unfavourable starting position. In order to build up a completely new order in the European trade policy, a common start must be made from approximately similar initial positions. It will be one of the duties of the new tariff to enable Switzerland to achieve this similarity.

Paradoxical as it may appear at first glance, it is precisely this expected lowering of tariff barriers that makes the tariff revision particularly urgent and inevitable.

This weapon, which when the time comes must help to find solutions on the bilateral plane, assumes all the more importance now that import restrictions have lost most of their effectiveness as a result of the liberalisations achieved within OEEC. It is, of course, to be hoped that the efforts towards integration in Europe will not force Switzerland to resort to such a means of defence, but that cannot be altogether excluded. *(To be concluded in next issue.)*



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