

CONTRACTING PARTIES

GATT/GEA.2/W.10

16 June, 1949.

Third Session.

DRAFT REPORT OF COMMITTEE ON SPECIAL EXCHANGE AGREEMENTS

Text Agreed by the Committee on Second Reading

Draft Resolution No 1

The CONTRACTING PARTIES,

CONSIDERING that paragraph 6 of Article XV of the General Agreement on Tariffs and Trade provides that any contracting party, which is not a member of the International Monetary Fund, shall, within a time to be determined by the CONTRACTING PARTIES, after consultation with the Fund, become a member of the Fund, or, failing that, enter into a special exchange agreement with the CONTRACTING PARTIES,

CONSIDERING that paragraph 6 of Article XV of the General Agreement provides further that any contracting party which ceases to be a member of the Fund shall forthwith enter into a special exchange agreement with the CONTRACTING PARTIES,

CONSIDERING further that, in accordance with paragraph 7 of the said Article, such special exchange agreement shall provide to the satisfaction of the CONTRACTING PARTIES that the objectives of the General Agreement will not be frustrated as a result of action in exchange matters by the contracting party in question, and taking into account that the terms of such agreement shall not impose obligations on that contracting party in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund,

HEREBY ADOPT the text annexed to the Resolution as the text of the special exchange agreement for the purpose of the above mentioned provisions of the General Agreement;

RESOLVE that each existing contracting party not then a member of the Fund shall enter into a special exchange agreement in the terms of the text annexed to this Resolution by depositing an instrument of acceptance on or before the first day after November 1, 1949 on which the CONTRACTING PARTIES are in session;

RESOLVE that each government which shall hereafter become a contracting party shall enter into a special exchange agreement in the terms of the text annexed to this Resolution

by depositing an instrument of acceptance within four months after it becomes a contracting party or on or before the first day after November 1, 1949 on which the CONTRACTING PARTIES are in session (whichever is the later), if it is not then a member of the Fund;

RESOLVE that any contracting party which ceases to be a member of the Fund shall enter into a special exchange agreement in the terms of the text annexed to this Resolution by depositing an instrument of acceptance forthwith (which shall in no event be later than thirty days after it ceases to be a member of the Fund);

AUTHORIZE the Chairman of the CONTRACTING PARTIES to sign on their behalf each of the agreements referred to above and to take all necessary action to give effect to this Resolution.

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ANNEX

DRAFT OF SPECIAL EXCHANGE AGREEMENT

WHEREAS paragraph 6 of Article XV of the General Agreement on Tariffs and Trade (hereinafter referred to as "the General Agreement") provides that any contracting party which is not a member of the International Monetary Fund (hereinafter called "the Fund") shall, within a time to be determined by the CONTRACTING PARTIES after consultation with the Fund, become a member of the Fund, or, failing that, enter into a special exchange agreement with the CONTRACTING PARTIES ;(1)

WHEREAS paragraph 7 of the said Article provides that such special exchange agreement shall provide to the satisfaction of the CONTRACTING PARTIES that the objectives of the General Agreement will not be frustrated as a result of action in exchange matters by the contracting party in question, and taking into account that the terms of such agreement shall not impose obligations on the contracting party in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the Fund on members of the Fund;

WHEREAS by Resolution of June ___ 1949 the CONTRACTING PARTIES adopted the text of the special exchange agreement for the purpose of giving effect to the above-mentioned provisions of the General Agreement and authorized their Chairman to sign on their behalf a special exchange agreement in the terms of this text with any contracting party which is not a member of the Fund and to take all necessary action to give effect to that Resolution;

THE CONTRACTING PARTIES,

and

The Government of _____ acting through its representative duly authorized for this purpose

HEREBY AGREE AS FOLLOWS :

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- (1) The first paragraph of the preamble shall be replaced by the following text in the case of a contracting party which has ceased to be a member of the Fund :

"WHEREAS paragraph 6 of Article XV of the General Agreement on Tariffs and Trade (hereinafter referred to as the "General Agreement") provides that any contracting party which ceases to be a member of the International Monetary Fund (hereinafter called "the Fund") shall forthwith enter into a special exchange agreement with the CONTRACTING PARTIES,"

Article I

Exchange Stability and Orderly Exchange

Arrangements

The Government of _____ shall collaborate with the CONTRACTING PARTIES to promote exchange stability, to maintain orderly exchange arrangements with other contracting parties to the General Agreement, to avoid competitive exchange alterations, and to assist in the elimination of restrictions on the making of payments and transfers for current international transactions with a view to the establishment of a multilateral system of payments and to the promotion of international trade.

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Article II

Determination of Initial Par Value

1. Unless an initial par value has been previously agreed between the Government of _____ and the CONTRACTING PARTIES, the Government of _____ shall, within thirty days after the CONTRACTING PARTIES so request, communicate to them the par value of its currency based on the rates of exchange prevailing at the time. The par value so communicated shall be the initial par value of its currency for the purpose of this Agreement unless within ninety days after the request has been received (a) the Government of _____ notifies the CONTRACTING PARTIES that it regards the par value as unsatisfactory, or (b) the CONTRACTING PARTIES notify the Government of _____ that in their opinion the adoption of such par value would be prejudicial to trade among the contracting parties. When such notification is given, the CONTRACTING PARTIES, _____ and the Government of _____ shall, within a period to be determined by the CONTRACTING PARTIES, agree upon a suitable initial par value.

2. The par value of the currency of the Government of _____ shall be expressed in terms of gold as a common denominator or in terms of the United States dollar of the weight and fineness in effect on July 31, 1944.
3. The CONTRACTING PARTIES will keep the Government of _____ currently informed on the par values of the currencies of the other contracting parties.

Article III

Gold Transactions based on Par Value

1. The Government of _____ shall not buy gold at a price above the par value for its currency plus the margin permissible under this Article, or sell gold at a price below the par value minus the margin permissible under this Article.
2. The margins permissible for transactions in gold by the Government of _____ shall be the same as those permissible to contracting parties which are members of the Fund, and the CONTRACTING PARTIES shall keep the Government of _____ informed of such margins.

Article IV

Foreign Exchange Dealings based on Parity

The maximum and minimum rates for exchange transactions between the currency of _____ and the currencies of other contracting parties taking place within the territories of _____ shall not differ from parity :

- a) in the case of spot exchange transactions, by more than one percent, and
- b) in the case of other exchange transactions, by a margin which exceeds the margin for spot exchange transactions by more than the CONTRACTING PARTIES consider reasonable.

Article V

Obligations regarding Exchange Stability

The Government of _____ undertakes, through appropriate measures consistent with this Agreement, to permit within its territories exchange transactions between its currency and the currencies of other contracting parties only within the limits prescribed under Article IV. The Government of _____ shall be deemed to be fulfilling this undertaking if its monetary authorities, for the settlement of international transactions, in fact freely buy and sell gold within the limits prescribed under Article III.

Article VI

Changes in Par Value

1. The Government of _____ shall not propose a change in the par value of its currency except to correct a fundamental disequilibrium.
2. A change in the par value of the currency of _____ may be made only on the proposal of the Government of _____ and only after consultation with the CONTRACTING PARTIES.
3. When a change is proposed, the CONTRACTING PARTIES shall first take into account the changes, if any, which have already taken place in the initial par value of the currency of _____ as determined under Article II. If the proposed change, together with all previous changes, whether increases or decreases,
 - a) does not exceed 10 percent of the initial par value, the CONTRACTING PARTIES shall raise no objection;
 - b) does not exceed a further 10 percent of the initial par value, the CONTRACTING PARTIES may either concur or object, but shall declare their attitude within ninety-six hours if the Government of _____ so requests;
 - c) is not within (a) or (b), the CONTRACTING PARTIES may either concur or object, but shall be entitled to a longer period in which to declare their attitude
4. The CONTRACTING PARTIES shall concur in a proposed change which is within the terms of (b) or (c) of paragraph 3 if they are satisfied that the change is necessary to correct a fundamental disequilibrium. In particular, provided they are so satisfied, they shall not object to a proposed change because of the domestic social or political policies of the Government of _____.
5. If the Fund, in accordance with Article IV, Section 7 of the Articles of Agreement of the Fund, makes uniform proportionate changes in the par values of the currencies of Fund members, the Government of _____ will change its par value proportionately, unless it informs the CONTRACTING PARTIES within ninety-six hours after it has been notified by the CONTRACTING PARTIES of the Fund's action that it does not wish the par value of its currency to be changed.
6. Changes in the par value made under paragraph 5 shall not be taken into account in determining whether a proposed change falls within (a), (b) or (c) of paragraph 3.
7. If the Government of _____ changes the par value of its currency despite the objection of the CONTRACTING PARTIES, in cases where the CONTRACTING PARTIES are entitled to object, the Government of _____ shall be deemed to have failed to carry out its obligations under this Agreement.

Article VII

Avoidance of Restrictions on
Current Payments.

1. Subject to the provisions of Articles IX and XI, the Government of _____ shall not, without the approval of the CONTRACTING PARTIES, impose restrictions on the making of payments and transfers for current international transactions.
2. The Government of _____ shall not engage in, or permit its Treasury, central bank, stabilization fund, or other similar fiscal agency, to engage in any discriminatory currency arrangements or multiple currency practices except as authorized under this Agreement or approved by the CONTRACTING PARTIES. If such arrangements and practices have been maintained since January 1, 1948 (the date on which the General Agreement was first provisionally applied), the Government of _____ shall consult with the CONTRACTING PARTIES as to their progressive removal. This paragraph shall not apply to such arrangements or practices maintained or imposed under paragraph 1 of Article XI, in which case the provisions of paragraph 3 of that Article shall apply.
3. Exchange contracts which involve the currency of any contracting party and which are contrary to the exchange control regulations of that contracting party maintained or imposed consistently with the Articles of Agreement of the Fund or with the provisions of a special exchange agreement entered into pursuant to paragraph 6 of Article XV of the General Agreement, shall be unenforceable in the territories of the Government of _____. In addition, the Government of _____ may, by mutual accord with other contracting parties cooperate in measures for the purpose of making the exchange central regulations of either contracting party more effective, provided that such measures and regulations are consistent with this Agreement or with another special exchange agreement entered into pursuant to paragraph 6 of Article XV of the General Agreement or with the Articles of Agreement of the Fund, whichever may be applicable to the contracting party whose measures or regulations are involved.

Article VIII

Controls of Capital Transfers

1. The Government of _____ may exercise such controls as are necessary to regulate international capital movements, but may not exercise these controls in a manner which will restrict payments for current transactions or which will unduly delay transfers of funds in settlement of commitments, except as provided in Articles IX and XI.
2. The Government of _____ undertakes that capital outflow will be in accordance with the objectives of this Agreement and of the General Agreement.

Article IX

Scarce Currencies

1. The Government of _____ is authorized to impose temporarily, after consultation with the CONTRACTING PARTIES, limitations on the freedom of exchange operations in a currency which has formally been declared scarce by the Fund in accordance with Article VII, Section 3 (a) of the Articles of Agreement of the Fund. Subject to the provisions of Articles IV and V of this Agreement, the Government of _____ shall have complete jurisdiction in determining the nature of such limitations, but they shall be no more restrictive than is necessary to limit the demand for the scarce currency to the supply held by, or accruing to, the Government of _____; and they shall be relaxed and removed as rapidly as conditions permit. The authorization here mentioned shall expire whenever the Fund formally declares the currency in question to be no longer scarce.
2. If the Government of _____ is imposing limitations in accordance with paragraph 1, it shall give sympathetic consideration to any representations by the contracting party whose currency has been declared scarce regarding the administration of such restrictions.
3. The CONTRACTING PARTIES shall request any contracting party against which restrictions may be permitted under this Article not to invoke the obligations of any engagement entered into with the Government of _____ prior to this Agreement in such a manner as will prevent the operation of the provisions of this Article.

Article X

Convertibility of Balances Held
by Other Contracting Parties

1. The Government of _____ shall buy balances of its currency held by another contracting party if the latter, in requesting the purchase, represents:
 - (a) that the balances to be bought have been recently acquired as a result of current transactions; or
 - (b) that their conversion is needed for making payments for current transactions.

2. The Government of _____ shall have the option to pay either in the currency of the contracting party making the request or in gold.

3. The obligation under paragraph 1 shall not apply
 - (a) when the convertibility of the balances has been restricted consistently with Article VII or VIII; or
 - (b) when the balances have accumulated as a result of transactions effected before the removal by the Government of _____ of restrictions maintained or imposed under Article XI; or
 - (c) when the balances have been acquired contrary to the exchange regulations of the Government of _____; or
 - (d) when the currency of the contracting party requesting the purchase has been declared scarce and the Government of _____ has been so notified under Article IX; or
 - (e) with the approval of the CONTRACTING PARTIES, in any particular circumstance in which the fulfilment of the obligations of paragraph 1 of this Article would dangerously threaten exchange stability.