

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
LIMITED B
GATT/CP.5/17
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ORIGINAL: ENGLISH

CONTRACTING PARTIES
Fifth Session

AMENDMENT OF LAST PARAGRAPH OF PART II OF ARTICLE XX OF THE GENERAL AGREEMENT TO CORRESPOND WITH ARTICLE 45 OF THE HAVANA CHARTER

Note by the United Kingdom Delegation

1. The final paragraph of Part II of Article XX of the General Agreement lays down that the general exception to the provisions of the G.A.T.T., in respect of measures for the purposes defined in Part II of that Article, shall expire on January 1st 1951, except in particular cases for which the prior approval of the Contracting Parties has been obtained.

This position was derived from the 1947 Geneva draft of the ITO Charter. At Havana, in the final text of the Charter, the relevant Article (Article 45) was amended, the words "January 1, 1951" being replaced by "a date to be specified by the Organisation"; the report of the relevant Sub-Committee, as approved by the Commercial Policy Committee and the Havana Conference, explained that:-

"The Sub-Committee decided to recommend that, instead of including a definite date in the final paragraph, the Organisation should be authorised to specify when the measures permitted under sub-paragraph 1(b), previously II, should be discontinued. It was felt that the conditions due to the war had not improved at the rate and to the extent expected when the Charter was first drafted and that even now it was not possible to foresee with any accuracy when these conditions would be likely to cease to exist. It appeared desirable therefore not to specify a date in advance, but to empower the Organisation to fix the time limit for the termination of all or any measures in the light of future developments."

When however the text of the General Agreement was amended in about 1948 to bring it into general conformity with the final text of the Havana Charter, no steps were taken to carry this particular amendment into the General Agreement - no doubt because it was then envisaged that the Havana Charter would enter into force, and that Article XX of the General Agreement would be superseded by Article 45 of the Charter, before the end of 1950.

2. The trend of events since 1948 has fully borne out the expectation of the Havana Sub-Committee that it would be unwise to provide for the general termination of these general exception clauses at the end of 1950. Post-war economic recovery throughout the world has of course progressed in the mainline, but (as the Havana Sub-Committee foresaw) not at the rate expected when the Charter and the G.A.T.T. were first drafted. The majority of countries are still experiencing severe balance of payments difficulties necessitating the maintenance of many measures to conserve, distribute equitably, and control prices of products which they are unable to obtain in sufficient quantities

to satisfy the full demand which would be experienced without such measures, and the substantial new defence programmes resulting from the current international situation are likely to necessitate increased or more prolonged use of such measures, in respect at any rate of a substantial number of important commodities.

5. In view of these circumstances, and of the fact that Article XX of the General Agreement will clearly not now be superseded by Article 45 of the Havana Charter by the end of this year, the United Kingdom Delegation propose that the former be now amended to correspond with the latter, in order to cover the continued need of many Contracting Parties to maintain measures under sub-paragraphs (a) and (b) of Part II of Article XX.