

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Trade and Development

## DRAFT PROPOSALS REGARDING PROCEDURES FOR CONSULTATIONS ON THE IMPLEMENTATION OF PART IV

### Note by the Secretariat on Discussion in the Committee on 28 January 1970

The Committee addressed itself to the draft proposals prepared by the secretariat (COM.TD/W/116) on consultations concerning the implementation of provisions of Part IV.

Mr. M.G. Mathur, Assistant Director-General, in introducing the discussion said that the suggestions regarding the procedure for organizing consultations under paragraph 2 of Article XXXVII had been drawn up in the light of the request made at the preceding meeting of the Committee. It had been pointed out by some members that the absence of an established procedure for arranging consultations was a factor inhibiting the use of the consultation mechanism provided for in the Article to resolve difficulties arising in connexion with the implementation of Part IV. The procedure suggested did not seek to create any new permanent machinery. Provisions for consultation already existed and the Committee on Trade and Development was responsible for arranging such consultations; the suggestions put forward indicated certain steps that might be taken to initiate and carry out the consultation procedure as expeditiously and as effectively as possible. The suggestion that a working party or a panel be set up was in conformity with established GATT practice; ad hoc bodies had been appointed for example to carry out consultations under Articles XXII and XXIII.

The draft suggestions left the question open as to whether the body which the Committee might set up to examine the problems should be a panel of experts or a working party. Something could be said for either of these alternatives.

The representative of Chile welcomed the secretariat proposals which he described as a useful basis for the discussion of the problems before the Committee. The aim of the discussion was to find an effective and practicable way of arranging the consultations. The best way to go about this was to start a dialogue which would allow those developing countries whose trade had been adversely affected by non-compliance with Part IV, to air their views. He considered the proposals of the secretariat as offering a framework for such a dialogue. He preferred the setting up of a panel of experts which would study the problems involved from a technical and objective standpoint.

The representative of Peru supported the proposals of the secretariat. He felt they provided an adequate framework for a dialogue on the problem before the Committee. He noted that the proposals envisaged that there would first be bilateral consultations, to be followed if necessary by an appropriate body set up to examine the problems involved. In his opinion, a panel of experts offered the best way of reaching solutions on an objective and practical basis.

The representative of Trinidad and Tobago also agreed that the proposals formed a useful basis for meaningful discussion of problems notified under Part IV by developing countries. He pointed out that since the proposed panels and working parties would have the same terms of reference and method of work and the only difference was in their composition, the Committee should give careful consideration to the choice of the body in question with an eye to the possible results of the work. He wondered whether the terms of reference, as stated in the draft document, would yield the necessary positive results. He emphasized that since the problems posed by the non-implementation of Part IV were complicated and varied, either a working party or a panel, or both, might be chosen depending on the nature of the problems and the circumstances. He stressed that whatever body was chosen it should have a dual mandate; firstly it should analyze the trade effects of the measure under study and their implications for the General Agreement and, secondly, it should recommend positive action to solve the problems concerned. He emphasized that his delegation would prefer action aiming at finding solutions before any subsidiary body was appointed and every effort should be made to come to an agreement at that initial stage.

The representative of the United States agreed with the desirability of seeking a satisfactory consultation procedure on the implementation of Part IV. The problem was however not just one of procedure since the Agreement itself already provided for effective procedures. He expressed concern that any new procedures might encourage the setting up of expert groups or working parties even where the necessity did not arise and pointed out that a considerable amount of consultation already took place within the Committee. Various problems concerning the implementation of Part IV were being considered in different bodies of GATT and it might be advisable to await developments in these bodies before any other steps were taken. If, however, the consensus was in favour of setting up a procedural body, he would prefer a working party bearing in mind that both developed countries and developing countries would have difficulty in bringing experts to Geneva for extended periods of time and in most cases would simply provide officers from their permanent missions in Geneva. Moreover, the problems posed by the implementation of Part IV were not only technical; questions of policy were also involved. Where important policy issues are at stake it is unrealistic to expect government experts to act in their personal capacity and not as representatives of their governments. It was therefore preferable to have a body composed of government representatives who could examine and discuss problems from both technical and policy angles.

The representative of Denmark supported the secretariat proposals but suggested that the text of the early part of paragraph 3 be amended to indicate that if a solution had not been reached a panel or a working party should be set up if interested countries requested that this be done.

The representative of Sweden pointed out that the wording of Article XXXVII was rather vague and that it was difficult to establish precisely whether a contracting party had complied or not with a particular provision. While he supported the proposal to set up panels or working parties they should be preceded by bilateral consultations, and experts for panels be nominated only with the concurrence of the parties involved. The secretariat should prepare sufficient documentation on the problems and issues to be examined. The problems should further be subject to preliminary discussion in the Committee.

The representative of Cuba welcomed the proposals of the secretariat and supported the setting up of panels of experts. In his view Part IV was an appeal to the conscience of contracting parties which made it possible to consecrate a few weak principles in favour of the developing countries. Hence it was desirable that consideration should first be given to its implementation at the technical level. Discussion of problems at a political level should be based on full knowledge of the technical and legal issues involved, hence the need for the setting up of panels of experts who could be expected to examine problems at a technical level and in an objective manner.

The representative of Nigeria stated that his authorities were aware that no definite and effective procedure had yet been established under Part IV to facilitate the implementation of its provisions and his Government would therefore welcome the proposals of the secretariat. In his opinion the need for a panel of experts which could discuss the technical implications of the problems involved was indispensable; the Committee itself could on certain occasions constitute a working party in which problems could be thoroughly discussed as they emerged.

The representative of the Commission of the European Economic Communities doubted the necessity of creating additional bodies. He pointed out that a major problem which would arise concerned the availability of suitable experts. It was moreover not certain that experts were in a position to act as independent agents. He preferred the setting up of working parties composed of government representatives.

The representative of India expressed his approval of the proposals outlined in the secretariat paper and agreed that the procedures were in conformity with the provisions for consultation spelled out in Article XXXVII:2. On the question of the kind of machinery to be adopted he urged a flexible approach pointing out that since issues and problems involved in the non-observance of Part IV were complex, there might be instances when the appropriate body to set up might be either an expert panel or a working party.