

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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OPERATION OF THE GENERAL AGREEMENT

Note by the Executive Secretary

During the course of the Seventh Session and subsequently the Executive Secretary has been in informal consultation with various contracting parties with relatively under-developed economies with a view to discussing the functioning of the General Agreement in relation to the special economic problems which confront them. In the course of these consultations the Haitian Government has submitted a memorandum which is of such general interest and importance that the Executive Secretary has decided to circulate it to all contracting parties for their information and for discussion, if it were so desired, at the next session of the CONTRACTING PARTIES.

MEMORANDUM BY THE GOVERNMENT OF HAITI

(Translation)

1. The Government of the Republic of Haiti has given its closest attention to the document in which the Executive Secretary of the GATT requested their comments on the future course to be adopted in regard to the operation of the General Agreement, taking into account the important developments which have taken place in the sphere of international trade during the past five years.
2. The apparent conflict of interests between the industrialized and under-developed countries was one of the stumbling blocks at the Havana Conference on Trade and Employment in 1948. The opposition of the Republic of Argentina crystallised primarily around this problem. In a sense, it was because Argentina was anxious to reserve its absolute freedom to impose quantitative restrictions for the purposes of establishing or protecting new industries and because she was adverse to the principle of prior international consultations, which she regarded as an interference with, and an infringement upon her national sovereignty, that she refused to adhere to the General Agreement.
3. The Republic of Haiti has never shared the fears of Argentina. For reasons of constitutional procedure, she accepted to adhere to the General Agreement only under the Annex Protocol of 10 October 1949. However, her basic attitude, as regards international trade, has always been directed to the attainment of the objectives laid down in the preamble to the Agreement: the reduction of trade barriers, the elimination of discriminatory treatment in international commerce as a means conducive to the raising of standards of living, full employment, a growing volume of real income and effective demand and the expansion of production and exchange of goods - in a word, the full use of the resources of the world. It was in that spirit that Haiti participated in the Havana Conference without entertaining any illusions as to the weight that the individual viewpoint of a country whose trade hardly represents one per cent of international trade, could carry, but fully conscious, of the physical and moral compulsion which effective international co-operation, manifested through collective declarations expressing the consensus of participating states, could bring about.
4. The Haitian Government fully realises all the present discrepancy between the realities of international trade, which is still stamped with the mark of competition and rivalry, and the basic principle laid down in Article XI of the Agreement which reads as follows:

"No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import, or export licences or other measures shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export, of any product destined for the territory of any other contracting party."

But it is the belief of the Haitian Government that the conflict of interests between the various trading nations of the world, between the various types of structure which characterize their economies or the different spheres of influence to which they belong, is only superficial; after all, great trade channels can only be maintained if in the long run, all participants derive lasting mutual advantages therefrom. Since, in the last analysis, all the nations of the world are adversely affected by a general clogging of the main channels of trade whereas they benefit by their expansion, their well-conceived interest commands each and everyone of them to regard any restriction imposed upon world trade, even though explicitly permitted under the Agreement, as a temporary exception, as a necessary but short-lived evil. Those infringements upon sound rules should harm those who claim their benefit as much as those who have to put up with them for the sake of good understanding between nations. If all the contracting parties are not agreed on those basic viewpoints, then they cannot agree on anything.

5. While, from the point of view of trade, the world can be divided into two categories of countries, namely industrialised and still under-developed countries, it seems that, for reasons of strict equity, there should be no basic difference as regards the treatment of releases which, on account of their very nature, are more frequently sought by a given type of country. If there is at present any feeling of uneasiness between the contracting parties as regards quantitative restrictions and their discriminatory application, it is only based, rightly or wrongly, on the belief that the text of the Agreement, or the practice followed by the CONTRACTING PARTIES, involves some measure of partiality with regard to a certain category of exceptions. One would have to do violence to many aspects of reality if one were to adopt a simplified system under which contracting parties could be divided into industrialised countries, which sought only those releases provided for under Articles XII, XIII and XIV when they experienced some embarrassment, and under-developed countries which, in similar cases, invoke those exceptions that are provided for under Article XVIII. In fact, at the Seventh Session, Ceylon consulted under Articles XII:4 (b) and XIV:1 (g) and also under Article XVIII. Indonesia, India and Italy have acted under both series of provisions; applications for releases which had been submitted under Article XVIII were withdrawn and subsequently re-submitted under Article XII and the opposite took place in one case at least. It is, therefore, for the convenience of exposition that the following paragraphs which reproduce the terminology used by the Executive Secretary will sometimes compare treatment accorded to

under-developed countries and industrialised countries as regards the waivers which they may be granted. What is, in fact, opposed is the two sets of exceptions which a country may invoke by turn. It is vital to bear in mind that there is no such thing, within the GATT, as two groups of diametrically opposed interests, let alone two contending parties.

6. Although the Delegation of Argentina at the Havana Conference were of the contrary opinion, it is the belief of the Haitian Government that the balance between the viewpoint of industrialised countries and that of non-industrialised countries has been adequately safeguarded in the Havana Charter. They also believe that this balance has been preserved in the General Agreement on Tariffs and Trade to the extent that the Agreement does not permit the use of quantitative import restrictions for the purpose of protecting national industry and condones them, on a temporary basis subject to the approval of the CONTRACTING PARTIES, for the purpose of promoting economic development or reconstruction, and that it also allows a contracting party to use quantitative restrictions in order to safeguard its external financial position and balance of payments provided, however, that such restrictions shall be progressively relaxed as conditions improve and that they shall be eliminated when conditions would no longer justify their institution or maintenance. A general review of all balance of payments restrictions was to take place at the time when, in the mind of those who drafted the General Agreement, most of those exceptions were to be obsolescent, that is, in 1951.

7. It is precisely the result of this review of authorised quantitative restrictions and the manner in which the review was carried out that involved some disequilibrium in the treatment accorded to releases depending on whether they were sought by industrialised countries or by under-developed countries, the latter not always being able to invoke balance of payments problems. Here is an impartial summary of the results of the review:

"The CONTRACTING PARTIES have examined the various methods of limiting imports, the technique of discrimination, the recent changes in the restrictive policies of governments as well as the intentional and incidental effects of restrictions. Throughout this review, individual governments imposing restrictions were never requested to justify their action; the purpose of this examination was merely, to draw up, so to speak, a balance sheet of existing restrictions and to determine to what extent recent developments in the general situation, both from the economic and political points of view, had affected the extent and manner of administering trade control instruments.

"In their report, the CONTRACTING PARTIES noted that many new factors arising from the international situation - and principal among these have been the increased demand and higher prices for certain raw materials and other essential supplies due partly to speculative buying, private inventory accumulation and governmental stockpiling, the increasing programmes of rearmament and the threat of new inflationary pressures - had affected different countries in diverse ways.

"Generally speaking, towards the middle of 1950 there had been, as the result of considerably improved balances of payment and reserve positions, - as well as the desire to acquire essential supplies - a tendency in many countries to allow or even to seek an increase in the amount of their imports. This trend towards an increase in imports continued into 1951. But for some important countries increased demand and higher prices resulted in balance of payment difficulties towards the middle of 1951.

"The report notes that governments which are applying import restrictions under Article XII are conscious that the obligation which each has assumed under the Agreement involves the continuous review by governments of their restrictive and discriminatory practices and the removal of any measure which is not strictly justifiable on balance of payments grounds. After reviewing existing restrictions, the CONTRACTING PARTIES concluded that countries cannot all move at the same pace, but that others, particularly those whose trade and payments position is improving as a result of recent developments, should be able to take definite steps towards further relaxation of restrictions and reduction of discrimination."

8. The conclusions of this report may appear extremely mild and harmless when compared to what the framers of the General Agreement had thought it appropriate to envisage for the first five years of its operation. Those conclusions, however, reflected very faithfully a trade evolution which was not foreseen by those who drafted the Agreement. Since at the Sixth Session nine contracting parties only had stated that they were not applying quantitative restrictions whereas another twenty-four confessed that they were maintaining some of one kind or another, it is obvious that the exception was becoming the rule as the rule was becoming the exception. This de facto situation was necessarily to be of decisive weight among a group of countries in which each government was free to withdraw the moment it believed that its participation was more burdensome than advantageous; a group in which decisions derive their enforceability only from the collective goodwill and the well understood interest of its members.

9. To this tendency, which in fact little agreed with the spirit of the General Agreement and which was likely in the last analysis to be conducive to the fragmentation of world trade, the wisdom of the CONTRACTING PARTIES was soon to supply the necessary counterweight. As early as the Seventh Session, it was recognized in plenary session that during the past year "the wave of new restrictions on imports in different countries had caused a downward trend of world trade in general and in many fields a downward tendency in production and employment" (Mr. Thommessen - Norway). Dr. Vargas Gomez (Cuba) did not conceal the uneasiness with which his Government had observed the tendency to intensify quantitative restrictions since the Sixth Session. "Indeed", he went on, "the imposition of restrictions tends to harm the economies of the countries involved and causes repercussions eventually harmful to them elsewhere. New measures and methods of correction are required to rid the world of the financial evils of the post-war period". It was decided that the new review of quantitative restrictions, which was to take place at the Seventh Session, should lay emphasis on their trade as well as on their purely financial aspects, that it would even by way of example touch upon measures applied to specific commodities, and that it would involve an analysis of the policies followed by countries which apply them and of the difficulties which exporting countries have to suffer. It was recalled that for the imposition of quantitative restrictions a real balance of payments problem must exist, that restrictions should not be excessive relative to the magnitude of the problem faced, and that they should be intended only as temporary measures. These moderating suggestions were in conformity with the spirit and sometimes even with the letter of the General Agreement, in particular with the provisions of Article XII:3 (c). But it seems that clauses of this kind had, to some extent been put under a bushel before the Seventh Session as a consequence of the then prevailing belief which obtained until then that the purpose of consultations on balance of payments restrictions was to afford an opportunity for a full and frank exchange of views and not to get a collective pronouncement by the CONTRACTING PARTIES on the justification for such restrictions. In the case of measures for economic development under Article XVIII-B it is precisely the justification for the proposed measures which constitutes the object of the consultations; the outcome, when favourable, is called a "release" which is granted only for a specified period.

10. A closer comparison of the provisions of the General Agreement which deal with restrictions to safeguard the external financial position and balance of payments of a country and those aimed at promoting economic development and reconstruction could easily bring out, even from the letter of the instrument, a tendency towards greater reluctance and severity in the case of releases under the second set of provisions, just a tendency which could probably be modified by the fact that such releases are more difficult to define and to limit. If that were the case, then the framers of those provisions would have felt the need to define more strictly the releases authorised for the purpose of economic development and to raise really insuperable obstacles against any misuse of this sort of trade barrier.

But such severity, even if it were clearly demonstrated, would not be inequitable. The situation here would not be one in which there were two parties or two groups of parties concerned and between which it was absolutely essential to maintain a careful balance. On the whole, the Haitian Government shares on this point the opinion expressed by the Executive Secretary that the tests which the Agreement provides in this regard do not go much further than the limits which a prudent country would observe in its own interest. In other words, supposing that releases of a certain type were conceded too easily or for too long, the remedy would not consist in showing the same spirit of accommodation as in the case of releases of the opposite kind because two blacks do not make a white.

11. Furthermore, in view of the great flexibility of the General Agreement the Haitian Government does not in any way intend to propose a modification to the text of this instrument which is already fairly dense and complex. It is the practice followed by the CONTRACTING PARTIES that must be altered. By the very nature of things, this practice will only be altered to the extent that member states will better understand that their individual interests are not divergent. The countries in the process of development have no exclusive point of view to be opposed to that of industrialised countries and to be defended before the CONTRACTING PARTIES. They, too, may sometimes have to institute quantitative restrictions. At the Seventh Session, Mr. Souza (Brazil) for instance explained how the balance of payments equilibrium of his country was conditioned by causes outside commercial policy: Brazilian exports depended on the level of the national income of industrialised countries while Brazilian imports have a tendency to increase with the growth of population and technological progress. Imports into Brazil should therefore be directed to the most essential sectors of its economy.

12. But, while under-developed countries are prepared to sacrifice their immediate interest to avoid undue harm being done to industrialised countries, they do not wish to be the only ones to suffer privations in the interest of the community. It should certainly not enter into the intention of the CONTRACTING PARTIES to play the part of the donkey in La Fontaine's fable "The Plague-Stricken Animals". The time is now ripe for consultations on all important releases to become less stereotyped and more realistic; such consultations should now be more detailed and of a wider scope so as to make it possible to examine the structural problems resulting from the inconvertibility of currencies and the disparity in world prices, as well as the secular trend in the evolution of the terms of trade and possible international action with a view to the stabilization of the markets of primary products. As Mr. Van der Peijl (Netherlands) said at the Seventh Session, "There is a very close relationship between import restrictions caused by balance-of-payment difficulties and other barriers which impede the expansion of international trade".

13. The suggestion of the Haitian Government concerning the operation of the General Agreement in the near future is that the CONTRACTING PARTIES, without giving up the detailed arrangements to which they have limited themselves, should, on the basis of Article XII:5, take the leadership for the only action which, in the words of Dr. John H. Williams, Professor of Political Economy at the University of Harvard and Counsellor to the Federal Reserve Bank of New York when delivering his "Stamp Memorial Lecture" at the University of London in November 1952, can resolve the present uneasiness in international trade, that is, a fundamental readjustment of the composition of production and trade. Dr. Williams added as an illustration that Great Britain should give up the idea of competing with younger countries in the domain of textiles and the light industry (consumption goods) and concentrate on the manufacture of machinery for which there is such a high demand in countries in the process of industrialization. There, in his opinion, lies the main reason why imports of the sterling area from the dollar area are unduly high and the root of the resulting balance of payment problems.

14. The remedy for the present disequilibrium in international trade is not to be found in any adjustment of the releases which may be accorded to one group of countries or of those which may be granted to another group. Such a system of reciprocal indulgence will necessarily lead to a blind alley, to the fragmentation of international trade, to a veiled return to bilateralism and the contraction of the general level of trade. The time seems, therefore, to be ripe for the group which is acting in the stead of the International Trade Organisation to attack the whole problem, and first to initiate a study (which it might take several years to carry out) of the remedies to be applied to the present situation as advocated by the greatest authorities:

- (a) the elimination of inflation;
- (b) the supply of the appropriate goods on the appropriate markets with the appropriate degree of selling pressure;
- (c) the acceptance by creditor nations of payment in goods and services; and
- (d) the promotion of a climate favourable to international investment.

It is only when the restoration of order and stability in international economic relations has been tackled from that angle that it will be possible to deal with detailed concrete measures.