

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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REVIEW OF THE GENERAL AGREEMENT

Proposals by the Benelux Governments

The Benelux Governments beg to submit to the CONTRACTING PARTIES two draft amendments to the present text of the General Agreement. The first amendment concerns Articles XII, XIII and XIV (quantitative restrictions) while the second relates to tariff reductions.

The two amendments are set out below, together with a brief commentary.

I

AMENDMENTS TO ARTICLES XII, XIII AND XIV

The provisions of Articles XII, XIII and XIV concerning the conditions in which restrictions designed to protect the balance of payments may be applied by the CONTRACTING PARTIES, are so drafted that it is not always easy to interpret them. Experience has shown, moreover, that these provisions can be improperly used, under the pretext of measures designed to protect the balance of payments, for the application of restrictions of an essentially protectionist character.

Finally, as the economic and financial situation of the majority of the contracting parties has improved considerably since Articles XII, XIII and XIV were drafted, a number of their provisions have now been outstripped by events.

In these circumstances, the Governments of the Benelux countries consider that it would be desirable to recast the provisions of Articles XII, XIII and XIV in a single article.

The resultant new Article XII would:

1. Retain, in a general manner, the provisions of former Article XII (paras. 1 and 2). (Possibility for a contracting party whose reserves are considered inadequate by the International Monetary Fund, to restrict the value or quantity of goods of which it permits the importation).
2. Provide for the obligation for contracting parties limiting their imports under para. 1 above, to relinquish all restrictions designed to protect the balance of payments within an established time-limit (this return to a free régime could be effected in two stages).

3. Introduce strict regulations to ensure non-discriminatory application of import restrictions. (Interdiction of the prohibition of certain imports; calculation of quotas on a proportional basis; establishment of global quotas, etc.).
4. Grant the CONTRACTING PARTIES the full and exclusive right to issue waivers to the stipulations of the new Article XII, subject to the prior submission of a circumstantial report by the contracting party requesting the waiver.

The new Article XII would include clauses designed to ensure that the too rigid application of the new rules relating to non-discriminatory imports does not affect any measures of liberalization which contracting parties may arrange among themselves as a result of closer economic co-operation.

Draft of amended Article XII

1. Notwithstanding the provisions of para. 1 of Article XI, any contracting party in order to safeguard its external financial position and balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.
2. No contracting party shall institute, maintain or intensify import restrictions under this Article ~~except to the extent necessary~~:
 - (i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or
 - (ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the contracting party's reserves.
3. (a) Contracting parties applying restrictions under para. 2 of this Article shall progressively relax them as the conditions mentioned in the said paragraph improve. They shall eliminate the restrictions when conditions would no longer justify their maintenance.
- (b) In any case, a contracting party resorting to the provisions of para 2. of this Article shall be required:
 - (1) To liberalize at least 75 per cent of the value of its import trade within twelve months from the date of its resort to Article XII(2).

It is recognized that in the choice of products which will benefit from the complete liberalization of imports, the contracting party concerned may give priority to goods which are of essential importance for its economic system. Nevertheless, in order to obtain authority to use these facilities, the contracting party concerned shall submit for the consideration and approval of the CONTRACTING PARTIES a complete list of products considered to be essential for its economy.

- (2) Put an end to all import restrictions within twenty-four months from the date of resort to the said Article.
- (c) No contracting party shall completely prohibit the importation of any specific article into its territory.
- (d) Any contracting party may be required to apply an identical reduction coefficient when establishing quotas for products the importation of which is not free.
- (e) Contracting parties shall be required, in connection with goods liable to quotas, to apply a system of global quotas calculated over a sufficiently representative period or, in the absence of global quotas and with the prior authorization of the CONTRACTING PARTIES, to apply to each country a uniform percentage reduction.

In both cases due regard shall be paid to any special factors which may have affected or may be affecting the trade in the products concerned.

- (f) Any contracting party may be required to give due consideration to the interests of other contracting parties when selecting goods for quota purposes.

Moreover, it undertakes at the request of a contracting party whose economic or commercial interests may be specially injured by the restrictions which it has imposed, to make the necessary amendments to alleviate as far as possible the prejudicial effects in question.

4. (a) Any contracting party resorting to the provisions of Article XII(2) shall so notify the CONTRACTING PARTIES before the (a month after the conclusion of this Agreement). The same date shall be used as a basis for calculating the time-limits provided for in para. 3(b) (1) and (2).
- (b) Any contracting party which is not applying restrictions under this Article, but is considering the need to do so, shall before instituting such restrictions (or, in case of emergency, immediately after having done so), consult with the CONTRACTING PARTIES as to the nature of its balance-of-payments difficulties. In the report which

the contracting party shall submit, it shall show that the scope of the restrictions which it proposes to introduce is justified by its balance-of-payments difficulties. Furthermore, it shall submit to the CONTRACTING PARTIES the various corrective measures at its disposal including those which it has chosen to remedy the situation and shall state the possible effects of such measures on the economies of other contracting parties.

The CONTRACTING PARTIES shall ascertain on that occasion whether the conditions laid down in para. 2 of this Article have been fulfilled and shall, on the basis of justificatory evidence submitted by the contracting party, decide the scope of the restrictions which may be applied. When they deem it necessary, the CONTRACTING PARTIES shall consult with the International Monetary Fund in respect of the justificatory evidence submitted.

- (e) Any contracting party resorting to the provisions of Article XII(2) shall submit to the CONTRACTING PARTIES, within ten months from resort to those provisions, a report on the re-establishment of liberalization measures which it has taken or proposes to take for the achievement of the objective fixed in para. 3(b)(1). If it feels unable to achieve the said objective, the contracting party shall so notify the CONTRACTING PARTIES, indicating:
- (i) the internal measures it has taken to restore the equilibrium of its economy and the results of such measures;
 - (ii) the other internal measures which it proposed to take and the additional time it considers it requires for the achievement of the objectives fixed in para. 3(b)(1).

Before the expiry of 12 months from the date when the contracting party resorted to the provisions of Article XII(2), the CONTRACTING PARTIES shall ascertain whether the situation of the contracting party concerned seems to justify its inability to achieve the objective fixed in para. 3(b)(1) and whether the measures taken or envisaged and the time-limits which it deems necessary for such achievement are acceptable.

The CONTRACTING PARTIES shall be entitled on that occasion to authorize the contracting party to deviate, in certain cases, from the provisions of para. 3(b) - (e).

In no circumstances shall a contracting party be authorized, even when it is admitted that it might open quotas for certain specific products, to prohibit the import into its territory of minimum commercial quantities of goods not liable to import quotas.

5. The CONTRACTING PARTIES recognize that the principle of non-discrimination as prescribed in para. 3 of this Article should not be applicable to contracting parties which endeavour to secure by means of freely concluded agreements a closer integration of their economies and which, by the application of special regulations, promote to the greatest possible measure the maximum development of multilateral trade.
6. Provision must also be made for another exception to para. 3 in order to authorize quantitative restrictions applicable in respect of countries whose currency is scarce.

II

AMENDMENTS RELATING TO CUSTOMS TARIFFS

The amendments to the customs tariff provisions have a two-fold object in view. The first is to call attention to one of the fundamental obligations of the General Agreement, which is to endeavour by all means to reduce customs tariffs to a level where they do not hamper trade. The second object is to establish the principles of a tariff fulfilling that condition.

Draft Article I A

1. The CONTRACTING PARTIES undertake either by way of bilateral negotiations or by means of a plan including automatic reductions, to reduce their customs duties when the latter are an obstacle to the development of trade.
2. Customs duties shall be deemed to be an obstacle to the development of trade between the CONTRACTING PARTIES whenever:
 - (a) Their average incidence in each of the large sectors of the import trade of a contracting party is higher than the following level:
.....
 - (b) Their individual incidence is higher than the following ceilings:
for industrial raw materials x per cent, for semi-finished products x per cent, for finished products x per cent and for agricultural products x per cent.
3. In so far as customs duties are levied in violation of the principles of para. 2, the CONTRACTING PARTIES undertake to reduce them so that after a period of three years:
 - (i) all customs rates not in conformity with the principles of para. 2(a) shall have been reduced by 30 per cent
 - (ii) all individual customs duties shall be established in conformity with the principles of para. 2(b).

4. The reduction to be made in accordance with para. 3(i) above shall be proportionately reduced, when for one of the sectors mentioned in para. 2(a) the average incidence of the duties of a contracting party is between the following line of demarcation:
..... and the level mentioned in para. 2(a) above.
5. Any contracting party shall be free to exclude from the reduction of duties mentioned in para. 3(i) of this Article:
 - (i) any duty which shall be recognized as having a fiscal character in accordance with the following procedure:
....., as well as the corresponding commercial value;
 - (ii) any duty levied on merchandise of which at least 50 per cent in value has been imported from non-member countries - as well as the corresponding commercial value - provided that the main supplying country is not a member country.
6. (a) Contracting Parties which have been recognized as being in the process of economic development shall be entitled to reduce the average incidence of their duties for the whole of their tariffs and not by sectors as stated in para. 2(a) above; the line of demarcation shall be fixed for these contracting parties at
.....
 - (b) These contracting parties shall also be entitled to exclude:
 - (i) all their duties of a fiscal character as well as the corresponding commercial value;
 - (ii) all duties levied on products coming within their economic development plans as well as the
..... corresponding commercial value.
7. The reductions made under this Article shall be mentioned in the schedules of concessions appended to this Agreement in accordance with Article II.