

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/3772

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REGULAR CONSULTATIONS ON BALANCE-OF-PAYMENTS RESTRICTIONS WITH DEVELOPING COUNTRIES

Note by the Chairman of the Committee on Balance-of-Payments Restrictions^{1/}

1. At the Council meeting of 6 October 1971, the retiring Chairman of the Committee on Balance-of-Payments Restrictions referred to the difficulties in arranging Article XVIII:12(b) consultations in 1971, and proposed that consideration be given to procedural changes so as to ensure a more effective and meaningful implementation of these provisions from 1972. Since then, practical considerations have entailed delays in scheduling the 1972 consultations and it has been suggested that budgetary restraints and the pressure of other tasks facing the secretariat and delegations might call for the postponement of many, if not all, of the regular consultations with developing countries which fall due in 1972 or have been brought forward from the preceding year. At any rate, there appear to be practical difficulties in carrying out all these consultations before the end of the year.

2. In his personal contacts with delegations, the Chairman of the Committee² has gained the impression that there is general doubt about the usefulness of some of these consultations in their present form. Some delegations feel that detailed discussions of the external financial justification of the restrictions every two years may not be necessary in all cases and a consultation may become a formality for which adequate preparation may require an amount of energy and attention disproportionate to its value. On the other hand, the consultations are specifically provided for in the General Agreement for well-defined purposes and for sound reasons, and many contracting parties would have serious misgivings if these GATT provisions were to be ignored while there were no insurmountable obstacles to their implementation. These sentiments seem to advocate a solution which would both meet the legal requirements of the General Agreement and lessen the burden of the CONTRACTING PARTIES and the developing countries concerned without detracting from the basic objective of fostering understanding of the balance-of-payments problems of developing countries and providing opportunities for exploring constructive solutions to them.

¹As adopted by the Committee.

²Mr. A. Dunkel (Switzerland).

3. In the light of these considerations, it is proposed that the following modified procedures be adopted for the implementation of the provisions of Article XVIII:12(b) concerning regular consultations on balance-of-payments restrictions with developing countries:

(a) each year, the secretariat establishes a schedule showing the contracting parties acting under Article XVIII:B which are required to consult under paragraph 12(b) that year;

(b) each of these contracting parties should transmit to the CONTRACTING PARTIES a concise written statement on the nature of the balance-of-payments difficulties, the system and methods of restriction (with particular reference to any discriminatory features and changes in past two years), the effects of the restrictions and prospects of liberalization;

(c) the statements received will be circulated to all contracting parties and presented to the Committee on Balance-of-Payments Restrictions for prior consideration, so that the Committee may determine whether a full consultation is desirable. If it decides that such a consultation is not desirable, the Committee will recommend to the Council that the contracting party be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled its obligations under Article XVIII:12(b) for that year. Otherwise, the CONTRACTING PARTIES will consult the International Monetary Fund, and the Committee will follow the procedures applicable hitherto (as set forth in L/3388) for a full consultation; and

(d) arrangements will be made with the staff of the International Monetary Fund for the supply of balance-of-payments statistics for each country submitting a statement in accordance with paragraph (b) above.

4. It should be noted that this proposal relates only to the periodic consultations provided for in Article XVIII:12(b). Consultations under Article XVIII:12(a) will continue to follow the existing rules. Consultations with developed countries acting under Article XII will be held annually in the usual manner.

5. There are a number of developing contracting parties, mostly the newly independent countries, which maintain import restrictions without, up to now, having to specify the GATT provisions being invoked to justify them. Since most of these restrictions are apparently justifiable under Section B of Article XVIII, the hesitancy on the part of the CONTRACTING PARTIES to seek clarification of this legal point may largely be attributable to their unwillingness to burden these developing countries with the periodic consultations that would have been required if the Article XVIII:B provisions were explicitly invoked. This being the case, the adoption of the "streamlined" procedures set forth in paragraph 3 above should contribute substantially to easing the way for all developing countries to define their position regarding their restrictions in relation to the GATT provisions. It is therefore proposed that, upon approval of the new procedures, the secretariat be instructed to enquire and discuss with each of these developing countries with a view to establishing a complete list of the contracting parties invoking Section B of Article XVIII of the Agreement.