

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/17

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Special Distribution

CONTRACTING PARTIES
Ninth Session

REVIEW OF THE AGREEMENT

Problems relating to Economic Development

Note by the Executive Secretary

At the Chairman's request, the Executive Secretary has the honour to circulate the text of a new draft of Article XVIII which has been prepared in the light of the consultations which the Executive Secretary and the Deputy Executive Secretary have had with the United Nations regional commissions for Asia and Latin America and with the governments of the contracting parties in those continents.

The object of this article is to replace the present Article XVIII as well as those provisions of Articles XII to XIV which relate to underdeveloped countries.

ARTICLE XVIII

Governmental Assistance to Economic Development

1. The contracting parties recognize that the attainment of the objectives of this Agreement will be facilitated by the progressive development of their economies, and in particular of the economies of those contracting parties which, in their present stage of development, can only afford low standards of living for their people.
2. The contracting parties agree that special governmental assistance may be required to promote the establishment of particular industries in order to raise the general standard of living of the population and that the grant of such assistance in the form of protective measures or measures otherwise affecting the import of foreign goods is justified in so far as it facilitates the attainment of the objectives of this Agreement. In particular they agree that this Agreement should not be applied so as to deprive a contracting party in the early stage of development of the right (a) to maintain sufficient flexibility in its tariff structure to be able to grant the tariff protection required for the establishment of new industries, (b) to apply quantitative restrictions to offset an excessive demand for imports resulting from the application of its programme for the development of industrial and other economic resources, provided the sole object of such restrictions is to maintain the general level of imports within the limits of its foreign exchange resources; and to give priority to the importation of those products or classes of products which are more essential in the light of its programme of economic development.
3. Accordingly, a contracting party which is in the early stage of development and which can only afford low standards of living for its people shall be free to deviate temporarily from the rules of this Agreement subject to the provisions of Sections A., B., and C. of this Article.

A.

4. If a contracting party operating under this Article considers it desirable, in order to achieve the objective set forth in paragraph 2 above, to modify a rate of duty which has been bound under Article II of this Agreement, it shall enter into negotiation with any other contracting party with which such rate of duty was initially negotiated, and with any other contracting parties which the Organization determines to have a substantial interest in the proposed action. If agreement is reached between the contracting parties concerned, the schedule of the contracting party which proposes to change the rate shall be considered as modified to give effect to such agreement, including any compensatory concessions involved. If agreement is not reached within a period of sixty days after notification of the proposed action has been received by the Organization, it shall promptly consider the matter and, if it finds that the contracting party which proposes to modify the rate has made every effort to reach an agreement and that the compensatory adjustment offered is adequate, that contracting party shall be free to modify the rate at the same time as it introduces the compensatory adjustment.

B.

5. If a contracting party operating under this Article experiences, as a result of the application of its programme for the development of industrial and other economic resources, an excessive demand for imports which threatens its monetary reserves, it shall be free, subject to paragraphs 6, 7 and 8 below, to apply measures designed to restrict the quantity or value of merchandise permitted to be imported to the extent necessary to remove this threat.

6. In carrying out these measures, the contracting party may determine the incidence of the restrictions on imports of certain products or classes of products which are more essential in the light of its policy of economic development, provided that those restrictions shall be applied in such a way as to avoid unnecessary damage to the commercial or economic interests of any other contracting party, to allow the importation of any description of goods in minimum commercial quantities and of commercial samples, and to permit compliance with patent, trade-mark, copyright or similar procedures. Furthermore, in carrying out its domestic policies, the contracting party shall pay due regard to the need for restoring equilibrium in its balance of payments and to the desirability of assuring an economic employment of productive resources.

7. Any contracting party introducing or maintaining restrictions under this Section shall, before introducing such restrictions or introducing changes in the application of such restrictions, notify the Organization in writing. It shall consult with the Organization, if requested to do so, and give sympathetic consideration to the recommendations which may be made by the Organization in the course of such a consultation. It shall progressively relax such restrictions as conditions improve, maintaining them only to the extent necessary to remove the threat to its monetary reserves and shall eliminate them as soon as conditions no longer justify such maintenance.

8. The restrictions introduced or maintained in accordance with this Section shall be applied in a non-discriminatory manner in accordance with the provisions of Article XIII of this Agreement, provided that a contracting party applying such restrictions would be free to deviate from the provisions of Article XIII in the same way as it may be authorized to do as regards restrictions on payments and transfers for current international transactions under the Articles of Agreement of the International Monetary Fund or under a special exchange agreement entered into pursuant to paragraph 6 of Article XV of this Agreement.

C.

9. The contracting parties agree that, as a general rule, the provisions of the General Agreement, including those of Sections A and B above should be sufficient to enable those contracting parties described in paragraph 3 above to meet the requirements of their economic development. They recognize, however, that there may be exceptional circumstances where a contracting party operating under this Article may find that no measure consistent with these provisions is feasible or practicable in order to achieve the objective set forth in paragraph 2 above. They accordingly agree on the following procedure to meet these exceptional circumstances.

10. The contracting party concerned shall notify the Organization of the special difficulties which it meets in the achievement of the objective set forth in paragraph 2 above and indicate the specific measure which it proposes to introduce in order to remedy these difficulties. Any such measure shall be applied in a non-discriminatory measure and shall not affect rates of duty bound under Article II of this Agreement.

11. If, within thirty days of the date of such notification, the Organization does not request the contracting party to consult with it, that contracting party shall be free to introduce the proposed measure and to deviate from the provisions of this Agreement to the extent necessary to achieve the objective set forth in paragraph 2 above.

12. If it is requested by the Organization, the contracting party concerned shall consult with it as to the bearing of the measure proposed on its programmes of economic development, as to alternative measures which may be available and as to the possible effect of the measures proposed on the commercial or economic interests of other contracting parties. If, as a result of such a consultation, the Organization agrees that there is no measure consistent with the other provisions of the Agreement which is feasible or practicable in order to achieve the objective set forth in paragraph 2 above and concurs in the proposed measure, the contracting party concerned shall be free to introduce the proposed measure and shall be released from its obligations under the relevant provision of this Agreement.

13. If, within ninety days from the date of notification under paragraph 10 above, the Organization has not concurred in the proposed measure, the contracting party concerned shall be free to introduce the measure proposed, provided that any other contracting party which is substantially affected by a measure introduced in accordance with this Section shall be free, not later than ninety days after such

measure is taken, to suspend, subject to written notification being sent to the Organization thirty days in advance, the application to the trade of the contracting party taking such action, of such substantially equivalent obligations or concessions under this Agreement, the suspension of which the Organization does not disapprove.

D.

14. The Organization shall review annually all measures in force pursuant to the provisions of Sections B. and C. of this Article.