

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

CONTRACTING PARTIES
Ninth Session

Review Working Party I on
Quantitative Restrictions

REDRAFT OF ARTICLE XVIII

Annex to the Report of the Chairman of Sub-Group A

The following redraft of Article XVIII, to be annexed to the report of the Chairman of Sub-Group A, embodies suggestions and amendments considered by the Sub-Group and is submitted to the Working Party as a basis for further discussions, in the light of the Chairman's report.

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 can only afford low standards of living for their people and are in the early stages of economic development.
2. They recognize further that it may be necessary for those contracting parties, in order to implement programmes of economic development designed to raise the general standard of living of their population, to grant governmental assistance in the form of protective or other measures affecting imports, and that the granting of such assistance is justified in so far as it facilitates the attainment of the objectives of this Agreement. They agree therefore that those contracting parties should enjoy additional facilities to enable them (a) to maintain sufficient flexibility in their tariff structure to be able to grant the tariff protection required for the establishment of a particular industry and (b) to apply quantitative restrictions to offset an excessive demand for imports resulting from the application of their programmes of economic development and to maintain the general level of imports within the limits of their foreign exchange resources while giving priority to the importation of those products, or classes of products, which are more essential in the light of those programmes.
3. They recognize finally that with those additional facilities which are provided for in Sections A and B of this Article, the provisions of this Agreement should be sufficient to enable contracting parties to meet the requirements of their economic development. They agree, however, that there may be circumstances where no measure consistent with those provisions is feasible or practicable to permit a contracting party in the process of economic development to grant the

governmental assistance required to promote the establishment of a particular industry with a view to raising the general standard of living of its population. Special procedures are laid down in Sections C and D of this Article to deal with those cases.

4. (a) Consequently, a contracting party which can only afford low standards of living for its people and is in the early stages of economic development shall be free to deviate temporarily from the provisions of the other Articles of this Agreement, subject to the provisions of Sections A, B and C of this Article.

(b) A contracting party which is in the process of economic development but which does not come within the definition of sub-paragraph (a) above, may make applications to the Organization under Section D of this Article.

Section A¹

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Section B²

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¹ This Section has been referred to another Working Party. In view of the changes made in the preamble to this Article, the opening part of this Section should read as follows:

"If a contracting party coming within the definition set out in sub-paragraph (a) of paragraph 4 of this Article considers it desirable, in order to promote the establishment of a particular industry with a view to raising the general standard of living of its population, to modify a rate of duty ...".

² This Section has not yet been considered by the Sub-Group. To conform with the new draft, the opening phrase of this Section should read:

"If a contracting party coming within the definition set out in sub-paragraph (a) of paragraph 4 of this Article ...".

Section C

10. If a contracting party coming within the definition set out in sub-paragraph (a) of paragraph 4 of this Article, finds that governmental assistance is required to promote the establishment of a particular industry with a view to raising the general standard of living of its population, but that no measure consistent with the provisions of this Agreement, including those of Sections A and B of this Article is feasible or practicable to achieve that objective, it may have recourse to the procedures set out in this Section.

11. The contracting party concerned shall notify the Organization of the special difficulties which it meets in the achievement of the objective outlined in paragraph 10 above, and indicate the specific measure affecting imports which it proposes to introduce in order to remedy these difficulties. It shall not introduce that measure before the expiry of the time-limit laid down in paragraph 12 or in sub-paragraph (b) of paragraph 14 below, as the case may be, provided that, if the industry receiving assistance has already started production, the contracting party concerned may, after informing the Organization, take such measure as may be necessary to prevent, during that period, imports of the product or products concerned from increasing substantially above a normal level.

12. If, within thirty days of the notification of the measure, the Organization does not request the contracting party concerned to consult with it, that contracting party shall be free to deviate from the relevant provisions of the other Articles of this Agreement to the extent necessary to apply the proposed measure.

13. If it is requested by the Organization to do so, the contracting party concerned shall consult with it as to the purpose of the proposed measure, as to alternative measures which may be available under this Agreement and as to the possible effect of the measure proposed on the commercial and economic interests of other contracting parties. If, as a result of such consultation, the Organization agrees that there is no measure consistent with the other provisions of this Agreement, which is feasible or practicable in order to achieve the objective outlined in paragraph 10 above, and concurs in the proposed measure, the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to apply that measure.

14. If, within ninety days from the date of notification under paragraph 11 above, the Organization has not concurred in the proposed measure, the contracting party concerned may introduce the measure proposed after informing the Organization.

15. (a) No action taken in accordance with paragraphs 12, 13 or 14 above shall deviate from the provisions of Articles I, II and XIII of this Agreement. Any measure affecting imports of a product, the rate of duty on which is bound under Article II of this Agreement, shall be governed by the procedures of Section A and not by the provisions of paragraphs 11 to 16 of this Section.

[(b) Any measure applied in accordance with paragraphs 12, 13 or 14 shall be for the purpose of contributing to the establishment of an industry which can be expected to make sufficient progress in the course of time to be able to exist without the need for the special measures permitted under those provisions.]

16. (a) Any contracting party which is substantially affected by a measure introduced in accordance with paragraph 14 above may, not later than ninety days after such measure is taken, suspend, subject to written notification being sent to the Organization thirty days in advance, the application to the trade of the contracting party taking action in accordance with paragraph 14 above, of such substantially equivalent obligations or concessions under this Agreement, the suspension of which the Organization does not disapprove. Any contracting party acting under this paragraph shall afford adequate opportunity for consultation in accordance with the provisions of Article XXII of this Agreement.

(b) Any measure taken pursuant to the provisions of this paragraph shall be withdrawn forthwith if the action taken in accordance with paragraph 14 is withdrawn or if the Organization concurs in the measure proposed after the expiry of the ninety-day time-limit laid down in paragraph 14.

Section D

17. Any contracting party coming within the definition of sub-paragraph (b) of paragraph 4 of this Article desiring, in the interest of the development of its economy, to take a specific measure of the type described in Section C of this Article in respect of the establishment of a particular industry may apply to the Organization for approval of such measure. The Organization shall promptly consult with the contracting party and shall, in making its decision, be guided by the considerations set out in paragraph 13 of this Article. If the Organization concurs in the proposed measure the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to apply that measure.

Section E

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

Interpretative Notes

(to be inserted in Annex I of the Agreement,
or in a declaration).

1. The phrase "in the early stages of development" is not meant to apply only to contracting parties which have just started their economic development, but also to contracting parties which are undergoing a process of industrialization to correct an excessive dependence on primary production.
2. The phrase "establishment of a particular industry" shall apply not only to the establishment of a new industry, but also to the establishment of a new branch of production in an existing industry and to the substantial transformation of an existing industry. It shall also cover the reconstruction of an industry destroyed or substantially damaged as a result of hostilities.

Paragraph 12

3. It is understood that the Organization shall invite the contracting party proposing to apply a measure under Section C to consult with it if it is requested to do so by a contracting party likely to be affected by that measure.

Paragraph 13

4. As a rule, the Organization will refrain from concurring in a measure which is likely to cause serious prejudice to exports of a commodity on which the economy of a contracting party is largely dependent.

