

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/158

24 January 1955

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CONTRACTING PARTIES

Ninth Session

Review Working Party IV on  
Organizational and Functional Questions

## INTERIM REPORT BY THE CHAIRMAN OF SUB-GROUP C

1. The following items were referred to Sub-Group C for consideration:

- (i) A new first Article relating to purposes and objectives (Norway, L/276, page 2).
- (ii) A new second Article relating to general obligations (Norway, L/276, page 2), and a Chilean proposal to incorporate into the Agreement some of the principles contained in Havana Charter Articles 3, 4, 6 and 8 (L/272, page 3).
- (iii) A new Article relating to full employment (New Zealand, W.9/79).
- (iv) A new Article concerning relations with non-members (South Africa, W.9/92).
- (v) A proposed interpretative note to Article XVIII (Denmark, Norway and Sweden, L/273, L/276, and L/275).

2. The Norwegian delegation withdrew both its proposals (under (i) and (ii) above) for new articles on the understanding that the Agreement of Organizational Provisions would contain in its first Article a cross-reference to the purposes and objectives of the General Agreement.

3. The Chilean delegation agreed that the principles of its proposals to incorporate some of the language of Articles 3, 4 and 6 of the Havana Charter were covered by the New Zealand proposal for an Article relating to full employment, and that they would not therefore press their proposal separately. They also agreed that the substance of their proposals with reference to Article 8 of the Havana Charter could more appropriately be dealt with within the framework of the consideration of Article XVIII,

4. The Sub-Group has not as yet come to any conclusions regarding the New Zealand and South African proposals (points (iii) and (iv) above).

5. The Sub-Group recommends that the following paragraph be included in the report of the Working Party to deal with point (i) above:

The Working Party discussed proposals by the Governments of Denmark, Norway and Sweden to add an interpretative note to paragraph 2 of Article XXIII. The representative of the Scandinavian countries, when introducing the proposals, stressed that action by the CONTRACTING PARTIES under Article XXIII should be directed towards the maintenance of a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in the original situation; it was, therefore, he stressed, desirable that resort should be had to retaliatory action only when all other possibilities had been explored.

The proposal was withdrawn in the light of the agreement by the Working Party that, subject to the qualifications explained in the following paragraph of this Report, the principle set out in the proposed interpretative note conformed with both the intention of the Article and the practices the CONTRACTING PARTIES had hitherto followed in applying its provisions. The Working Party considered that the requirement in paragraph 2 of the Article that the circumstances must be "serious enough" limits the possibility of authorizing a contracting party or parties to take appropriate retaliatory action to cases where endeavours to solve the problem through the withdrawal of the measures causing the damage, the substitution of other concessions, or some other appropriate action have not proved to be possible, and where such authorization appears to be the only means either of preventing serious economic consequences to the country for which a benefit has been nullified or impaired, or the only means of restoring the original situation.

Furthermore, the Working Party felt that any implication (such as had existed in the Scandinavian proposal) that the provision of appropriate compensation, on the one hand, and the removal of the measures causing the damage, on the other hand, are fully equivalent and satisfactory alternatives would not accord with the intent and spirit of the Article. In their view, the first objective, if the CONTRACTING PARTIES decided, in the event of a complaint under Article XXIII, that certain measures were inconsistent with provisions of the Agreement, should be to secure the withdrawal of the measures. The alternative of providing compensation for damage suffered should be resorted to only if the immediate withdrawal of the measures was impracticable and only as a temporary measure pending the withdrawal of the measures which were inconsistent with the Agreement.