

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Review Working Party I on  
Quantitative Restrictions

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## BALANCE-OF-PAYMENTS PROVISIONS IN ARTICLE XVIII,

### SECTION B

1. When the Report of Sub-Group I-A (W.9/154) was discussed in the Working Party, various delegations proposed that the provisions for consultation contained in paragraphs 10 and 11 should be similar to those proposed for developed countries in the report of Sub-Group I-B (W.9/174). Reference was also made to other differences between the text proposed for XVIII: B and the text proposed for Articles XII-XIV, and it was suggested that an attempt should be made to reconcile the texts by an informal drafting group.
2. These proposals have been discussed informally by a number of members of both sub-groups. There is now a substantial measure of agreement that, if the new Article XII contains a paragraph 4 on the lines of that proposed by Sub-Group I-B, paragraphs 10 and 11 in the draft of Article XVIII should be replaced by a new paragraph 10 on the lines of the draft in Annex A of this note.
3. There was also a substantial measure of agreement with the view that paragraph 12 of draft Article XVIII should be deleted and that the provisions relating to discriminations should be those of Article XIII (subject to Article XIV). It will be necessary to insert appropriate cross-references to Article XVIII:B in Article XIV.
4. On the question of the provisions of paragraphs 7, 8 and 9 of draft Article XVIII, most underdeveloped countries considered that these should remain in Article XVIII without substantial alteration. The content of these paragraphs is essentially similar to that of the corresponding paragraphs of Article XII, but their arrangement of ideas and general presentation is more appropriate in the context of Article XVIII. Most developed countries consulted fully supported this view.

ANNEX A

Proposed paragraph 10 of Article XVIII

Any contracting party applying new or substantially intensifying existing restrictions under this Section shall immediately after instituting or intensifying such restrictions (or in circumstances in which prior consultation is practicable, before doing so) consult with the Organization as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available and the possible effect of the restrictions on the economies of other contracting parties.

(b) (i) On a date to be determined by the Organization, the Organization shall review all restrictions still applied under this Section on that date. Beginning two years after that date, contracting parties applying import restrictions under this Section shall enter into such consultations with the Organization biennially.

(ii) The Organization shall invite any contracting party which is applying import restrictions under this Section to enter into such consultations with it at the request of any contracting party which can establish a prima facie case that the restrictions are inconsistent with the provisions of this Section, or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. If, as a result of such consultations, the Organization determines that the restrictions are being applied inconsistently with those provisions, it may release the contracting party bringing the complaint from specified obligations under this Agreement towards the contracting party applying the restrictions.

(c) In the course of consultations with a contracting party under this paragraph, the Organization shall indicate any respects in which the restrictions are not fully consistent with the provisions of this Section, or with those of Article XIII (subject to the provisions of Article XIV), and may make recommendations for the modification of the restrictions.

(d) If, as a result of the consultations, the Organization, with due regard to the considerations set out in paragraph 2 of this article, determines that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of this Section, or with those of Article XIII (subject to the provisions of Article XIV), it shall so inform the contracting party and shall make appropriate recommendations for securing compliance within a specified period of time with such provisions. If the contracting party does not comply with these recommendations within the specified period, the Organization may release any contracting party from such obligations under this Agreement towards the contracting party applying the restrictions as it determines to be appropriate in the circumstances.

(e) Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations. The Organization shall make provision for the utmost secrecy in the conduct of any consultation.

Interpretative Notes

Paragraph 10(a)

Contracting parties shall not be required to consult under this sub-paragraph unless the general level of their restrictions has changed.

Paragraph 10(d)

A determination of an inconsistency of a serious nature should not normally be made unless damage to one or more contracting parties is involved.

Proposed Insertion in Working Party Report

Paragraph 10(b) (ii)

It is understood that in the event of a determination of inconsistency under this sub-paragraph, the Organization shall give the contracting party applying restrictions an opportunity to withdraw or modify its restrictions before releasing the contracting party bringing the complaint from specified obligations.

