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PAKISTAN VIEWS ON THE UNITED STATES REQUEST FOR A WAIVER

Statement made by the Pakistan Representative
in the Working Party on 7 February 1955

So far as my delegation has been able to appreciate, the request of the United States for a waiver arises from the mandatory nature of their legislation and the importance which that country attaches to the fact that no obligation is undertaken by it which places any impediment or limitation on action being taken under the law. In other words, the United States want to see and ensure that they should have a free hand in taking action under this legislation and that the provisions of the General Agreement are not applied in a manner inconsistent with Section 22 of the Agricultural Adjustment Act. This seems to us to be a fundamental consideration from the United States point of view which may have to be conceded in any waiver. At the same time it appears to us, Mr. Chairman, that this would be what we may call the theoretical or hypothetical aspect of this question and, while we may concede in any waiver that we may draft, the right to have a free use of Section 22 by the United States administration in principle, we should also adequately provide for the practical aspect of the question. Now what is the practical aspect of this problem? In the papers circulated and in statements made by the United States delegation both in the plenary and in this Working Party it has been stated that some of the measures undertaken by the United States of America are already justified under the provisions of the Agreement. During the past twenty years the law has been used with caution and as far as possible sparingly and only when there was a real danger of imports materially interfering with an agricultural programme. It is stated that the area of trade covered by these measures is not large. Further, the problem of each case is kept under review and restrictions are reduced or removed as the circumstances justify. It follows therefore that the cases where the action of the administration will be inconsistent with the provisions of the Agreement will still be few and far between. The desirability of terminating and modifying these restrictions as soon as circumstances permit has also been accepted by the United States. My delegation therefore thinks, Mr. Chairman, that a solution of this problem after taking into account the above considerations should be acceptable to the United States. This would mean that:

First, the right of the United States to have free use to the provisions of Section 22 may be conceded in principle even when the action is inconsistent with Articles II and XI of the Agreement.

Secondly, an assurance may be given by the United States Government that it is not their intention in any way to deviate from the general principles of the policy followed by them during the past, namely to keep the use of the law limited to the minimum necessary and to try to meet the situation by internal and other measures as far as possible.

Again, the United States Government should also undertake to take corrective measures in order to see that favourable circumstances are created as soon as possible so that action may not be required under the law at all. They should thus accept the temporary nature of the requirement and the need of creating circumstances under which resort to Section 22 is no longer necessary.

Besides, in any consultations that are held between the contracting parties interested prior to the introduction of a new restriction or in the course of review of an existing restriction due consideration and weight should be given by the United States administration to the fact that all contracting parties and the United States itself have accepted the obligation under Articles II and XI and specially paragraph 1 of Article XI.

Further, before introducing the measure the United States administration should further satisfy itself that there are no measures consistent with the provisions of the General Agreement which will achieve the purpose of Section 22.

Lastly, provision should also be made for notifying the CONTRACTING PARTIES of the fact of institution of a new restriction or intensification of an existing restriction immediately after their institution. Annual consultations may also be provided in regard to these restrictions on the lines of the consultations under the new Article VII. It should further be provided that the recommendations made by the CONTRACTING PARTIES as a result of these consultations may cover observations on the extent of a particular measure, need for its continuity and its effect on the interest of any other contracting party. The United States administration should undertake a review of the measure with a view to modify or terminate it if and when such a recommendation is made by the CONTRACTING PARTIES

These, Mr. Chairman, are some of the points which my delegation would like to see incorporated in the terms of the proposed waiver.