

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Quantitative Restrictions

REPORT OF THE SPECIAL GROUP ON

GATT-FUND RELATIONS

1. The Special Group on relations between the International Monetary Fund and the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade, consisting of the representatives of Chile¹, Italy, the United Kingdom and the United States and the Executive Secretary, was set up by Review Working Party I to consider the problem of GATT-Fund relations, to consult with representatives of the Fund, and to submit a factual report to the Working Party.

I. Nature of the Problem

2. Generally there is a fairly clear division of work between the International Monetary Fund on the one hand and the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade on the other. The division, however, being based on the technical nature of government measures rather than on the effect of these measures on international trade and finance, is inevitably somewhat arbitrary in some respects. In many instances it is difficult or impossible to define clearly whether a government measure is financial or trade in character and frequently it is both. It follows that certain measures come under the jurisdiction of both the IMF and the CONTRACTING PARTIES and that decisions in relation to such measures have to be taken against a background of the objectives and rules both of the Fund and the General Agreement.

II. Fund Procedures in the Field of Exchange Restrictions

3. In considering the problems of overlapping jurisdiction, the Group paid particular attention to the problems that arise from exchange restrictions, and more particularly, multiple exchange rates.

¹The representative of Chile participated in earlier meetings of the Special Group, but was unable to attend the meeting at which the report was discussed and approved.

4. In this connection, the Fund representatives explained that Fund members which did not avail themselves of the transitional arrangements of Article XIV of the Fund Articles of Agreement had to seek prior approval from the Fund, under paragraph 2(a) (or in respect of discriminatory currency arrangements or multiple currency practices, under paragraph 3) of Article VIII for the imposition of restrictions on the making of payments and transfers for current international transactions. Fund members which availed themselves of the transitional arrangements under Article XIV could, subject to annual consultation with the Fund, continue to maintain exchange restrictions and adapt them to changing circumstances so long as they were needed for balance of payments purposes. The Fund could, if it deemed such action necessary in exceptional circumstances, make representations to such members that conditions were favourable for the withdrawal of any particular restriction, or for the general abandonment of restrictions inconsistent with the provisions of any other Article of the Fund Agreement.

5. In relation to multiple exchange rates, the Fund representatives recalled that the Executive Board of the Fund in December, 1947, took certain decisions relating to such practices which were transmitted to all of its members in a letter published in the Fund's 1948 Annual Report. A copy of the letter is attached as Annex I. Fund members which did not avail themselves of the transitional arrangements under Article XIV had to consult with the Fund as to the progressive removal of (or obtain its approval for maintaining) any multiple currency practice maintained at the time the Articles of Agreement of the Fund came into force. Members availing themselves of the transitional arrangements under Fund Article XIV can, subject to the provisions of Article XIV, Section 4, continue to maintain, as transitional arrangements and only if necessary for balance-of-payments reasons, such multiple currency practices as they were maintaining on the date of entry into force of the Fund Articles of Agreement. Changes in rates of exchange, including multiple rates, or introductions of new rates of exchange require consultation with and the concurrence of the Fund and this applies in all cases, including those of countries availing themselves of the transitional arrangements under Fund Article XIV. Since March, 1952, members of the Fund still retaining transitional arrangements have consulted annually with the Fund pursuant to Article XIV, Section 4, regarding the further retention of such measures. These procedures also apply to exchange taxes wherever these measures are used to modify par values, to create multiple currency practices or to introduce restrictive controls.

III. The GATT Provisions relating to Exchange Matters

6. In considering the provisions of the present GATT which refer to, or have a bearing on, exchange measures, the Group noted that in most cases (paragraph 1 of Article I, paragraphs 3 and 6 of Article II, paragraphs 2 and 3 of Article VI, paragraph 4(a) and 4(c) of Article VII and paragraphs 1 and 4 of Article VIII), the provisions themselves, or interpretative notes thereto, make explicit reference to exchange practices or to the rôle of the IMF.

7. As regards the more general provisions of Article XV, these fall into two parts, first, those relating to the relationship between the rights and obligations of contracting parties under the provisions of the GATT, on the one hand, and their rights and obligations under the Fund Articles of Agreement, on the other, and secondly, those providing for cooperation between the contracting parties and the Fund to the end that the CONTRACTING PARTIES and the Fund may pursue a coordinated policy with regard to exchange questions and questions of quantitative restrictions and other particular measures within their respective jurisdictions.

8. With respect to the first of these sets of provisions (paragraphs 4 and 9 of the Article) the Group considered the historical background and adequacy of these provisions and in this connection noted a proposal by the United Kingdom delegation (circulated to Review Working Party I as W.9/167) to add an interpretative note to sub-paragraph (a) of paragraph 9 the text of which is set out in Annex II to this paper. With respect to the first sentence of the proposed interpretative note, the Group agreed that it would be preferable not to try to lay down general principles about the relationship between paragraphs 4 and 9 but to leave this question over for empirical consideration if and when particular points arose which had a bearing on it. With respect to the remainder of the proposed interpretative note, the Group agreed that the reference to Article XXIII was unnecessary. They further agreed that paragraph 9(a) was not to be interpreted so as to preclude the CONTRACTING PARTIES from discussing the effects on the trade of contracting parties of exchange controls or restrictions imposed or maintained by a contracting party with that contracting party or from reporting on these matters to the IMF (as indeed was specifically envisaged in paragraph 5 of the Article).

9. In general, the Group felt that the more important problem was not that of defining the respective jurisdictions of the CONTRACTING PARTIES and the Fund but that of establishing more effective machinery for consultation in accordance with the provisions of Article XV.

10. In this connection, the Group agreed that there were two problems. The first was that of ensuring that governments who were members of both bodies should themselves pursue a coordinated policy in relation to the Fund and the GATT, taking full account, in particular, of the implications of exchange measures for countries' obligations under the Agreement. Appropriate action here rests with member governments.

11. The second problem is one of developing liaison between the two organizations themselves. In this connection, the Group considered the question of an approach by the CONTRACTING PARTIES to the Fund with a view to the negotiation, at an early date, of a formal Agreement setting out arrangements for inter-organizational consultation. The Group felt that it might be somewhat premature at this stage to seek to substitute such a formal Agreement for the present informal understandings but agreed to recommend that the Executive Secretary should be invited to prepare a draft of such an agreement for consideration by the CONTRACTING PARTIES at an appropriate future date. Meantime, the Group consider that closer cooperation between the two bodies could best be extended progressively and empirically by developing existing arrangements.

12. The Group noted that the CONTRACTING PARTIES had consulted with the Fund on all matters where such consultations were required under Article XV of the General Agreement. It noted that the Articles of the Agreement of the Fund do not contain a comparable requirement for consultation, and also that Fund consultation with the CONTRACTING PARTIES on some exchange matters which might have important trade effects was often not appropriate or feasible for reasons of urgency or secrecy - for example, when approval of changes in rates of exchange or the imposition of exchange restrictions was requested. It noted also that in some other cases consultation by the Fund had been limited by the difficulty of arranging urgent consultation with the CONTRACTING PARTIES, particularly at times when the CONTRACTING PARTIES were not in annual session. The Group felt, however, that the undoubted difficulties of this nature which exist would be eased considerably if the CONTRACTING PARTIES accepted the recommendations of Working Party IV (L/327) for strengthening the Intersessional Committee by giving it a wider field of activity and by arranging that it could be convened at much shorter notice than hitherto.

13. The Group felt that in most cases it would be sufficient that co-ordination should take place between the CONTRACTING PARTIES and the Fund on a staff-to-staff basis. The Group felt that the two staffs should work together to secure the maximum practicable degree of exchange of information and with a view to developing collaboration in joint examination of problems of common interest. This would help not only to ensure that, in appropriate cases, the Fund staff, in preparing its reports to the Executive Directors, would take full account of any information brought to their attention by the GATT staff regarding the trade aspects of exchange measures but also to ensure that matters of concern to the CONTRACTING PARTIES were brought to the attention of the Executive Directors before they took their decisions.

IV. Recommendations

14. The particular recommendations the Group wish to submit to the CONTRACTING PARTIES are that:

- (a) The CONTRACTING PARTIES should draw the attention of the Fund to their intention to have the GATT staff, in appropriate cases and where practicable, discuss with the Fund staff trade matters which had implications for exchange policy, and should inform the Fund that the GATT staff would be prepared, at the request of the Fund, to enter into similar discussions, where practicable, on the trade effects of exchange matters under Fund consideration.
- (b) Pursuant to this intention, the Executive Secretary should be authorized to work out with the Fund procedures for ensuring the maximum practicable degree of co-operation between the two staffs on matters of mutual concern to the CONTRACTING PARTIES and the Fund.

- (c) The Intersessional Committee should be authorized to conduct such consultations with the Fund as might seem appropriate in pursuance of the objectives of paragraph 1 of Article XV.
- (d) The CONTRACTING PARTIES should draw the attention of the International Monetary Fund to the new arrangements with respect to the Intersessional Committee, should explain that this would make consultation between the CONTRACTING PARTIES and the Fund easier and more expeditious than hitherto, and should express the hope that this should improve progressively the efficiency of consultation both ways between them.
- (e) The Executive Secretary should be requested to pursue consultations with representatives of the Fund with a view to preparing a joint draft of a formal agreement between the Fund and the proposed Organization for consideration by both parties at a suitable future date.

ANNEX I

INTERNATIONAL MONETARY FUND

19 December 1947

TO ALL MEMBERS:

During the past several months the Fund has been giving special consideration to multiple currency practices. I am writing to all of the members today in order to acquaint them with the results of our considerations. Enclosed is a memorandum containing the pertinent decisions taken by the Executive Board. These set forth the general lines of the Fund's policies toward multiple currency practices which the Fund has adopted to date, together with the obligations of the members and the jurisdiction of the Fund upon which the development of Fund policy will necessarily be based.

We intend, as rapidly as may be possible under the circumstances, to discuss with each member now engaging in a multiple currency practice how this general policy will be applied to its individual problems. In the meantime, all of the members are requested to be guided by the enclosed memorandum and to initiate with the Fund discussions of any pressing problems which may arise.

Sincerely yours,

/s/

Gutt
Managing Director

MULTIPLE CURRENCY PRACTICES

This memorandum contains the decisions the Fund has so far taken concerning its policies toward multiple currency practices and clarification of its jurisdiction with respect to such practices.

The exchange systems of the members who engage in multiple currency practices are frequently complex. For this reason various difficulties will be involved in the modification and removal of the practices, and the policy of the Fund in this regard must develop progressively as its consultations with the members concerned reveal problems which might otherwise be overlooked. The policies set forth below have been agreed as a basis for the initiation of discussions with the members affected:

I. POLICIES

A. General

1. Consultation. There should be continuing consultation on multiple currency practices between the Fund and the members concerned. Members should, as a minimum, consult the Fund before introducing a multiple currency practice, before making a change in any of the multiple rates of exchange, before re-classifying transactions subject to different rates, and before making any other type of significant change in their exchange systems.

2. Stability and Restrictions. In most cases multiple currency practices are both systems of exchange rates and restrictions on payments and transfers for current international transactions. Whenever it is inconvenient to deal with both aspects of such multiple currency practice simultaneously, priority should be given to those features which affect exchange stability and orderly exchange arrangements among members.

3. Removal. Early steps should be taken toward the removal of multiple currency practices which are clearly not necessary for balance-of-payments reasons. In such cases, ample time should be provided for members to take the necessary steps and to install appropriate substitutes where necessary.

The Fund will encourage members engaging in multiple currency practices for balance-of-payments reasons to establish as soon as possible conditions which would permit their removal, with the general objective of seeking removal not later than the end of the transitional period.

Where complete removal by the end of the transitional period proves impossible, the Fund will assist the members concerned to eliminate the most dangerous aspects of their multiple currency practices and to exercise reasonable control over those retained.

B. Specific Practices

1. Fixed Exchange Rates. When a multiple currency system includes fixed exchange rates, members should consult with the Fund on any changes in their practices, whether such changes concern the rates of exchange or the classification of transactions subject to particular practices. Should the step contemplated by a member be a part of a programme made in agreement with the Fund, the member could, of course, act without prior consultation.

When a multiple rate system is used for restrictions on current and capital transactions, the elimination of the restriction on current transactions would be highly commendable even though restrictions on capital transactions might have to be retained.

2. Taxes on Exchange Drafts. The use by members of taxes on exchange drafts resulting in an unusually large difference between buying and selling rates for a currency is not in accord with the objectives of the Fund Agreement and the Fund shall, in consultation with members concerned, seek the elimination of such practices as rapidly as practicable.

3. Fluctuating Rates of Exchange.

(a) Free Markets. When a multiple currency practice includes a free market with a fluctuating rate, the member should agree with the Fund on the scope of the transactions permitted to take place in that market. Any changes in the scope of these transactions should, of course, be subject to agreement with the Fund. The objective should be to eliminate the fluctuations in the free market as soon as such action is reasonably practicable. When it is not reasonably practicable to eliminate such fluctuations, the Fund will encourage members to exclude current transactions from the free market to the extent that this would be reasonable in the circumstances of each case.

(b) The Auction System.

(i) The purpose for which an auction system is to be used should be agreed with the Fund and any change in its scope should be agreed with the Fund. The fewer the transactions subject to the auction rate, and the less essential the goods involved, the better.

(ii) Depending upon the circumstances, the monetary authorities should undertake to keep the auction rate stable, or to maintain it within certain limits, or to make every effort to prevent brisk fluctuations.

(iii) Wherever auction rates exist or are proposed, the circumstances should be examined in order to determine whether a fixed rate should be substituted for the auction rate.

(iv) If, as is usually the case where an auction system exists, a reduction of the money supply is desirable, the proceeds of the auction market should be directed toward this end.

II. JURISDICTION OF THE FUND

Multiple currency practices, besides being in most cases restrictive practices, also constitute systems of exchange rates. Since exchange stability depends on effective rates, the general purposes of the Fund and the members' undertakings of Article IV, Section 4(a) "to collaborate with the Fund to promote exchange stability, to maintain orderly exchange arrangements with other members, and to avoid competitive exchange alterations" are fundamental considerations in an interpretation of the rights and obligations of members under Article XIV, Section 2 or Article VIII, Section 3 to maintain, introduce, or adapt multiple currency practices. Subject to these general principles, the following conclusions are agreed with respect to the Fund's jurisdiction and the obligations of members.*

A. Practices Subject to Article VIII, Section 3

1. Maintenance. A member maintaining multiple currency practices at the time the Agreement entered into force, if it does not take advantage of Article XIV, is required by Article VIII, Section 3, to consult with the Fund for their progressive removal or obtain the Fund's approval for their maintenance.

2. Introduction. Members that have not been occupied by the enemy and former enemy-occupied members which have not taken advantage of the transitional arrangements, whether or not they have existing multiple rate practices, may introduce a new practice only under Article VIII, Section 3, which provides expressly for the necessity of approval by the Fund.

3. Adaptation. If a multiple currency practice is in force by virtue of Article VIII, Section 3, the member may change or adapt such practice only after consulting with the Fund and obtaining its approval.

4. Reclassification. Members maintaining multiple currency practices under Article VIII, Section 3, may reclassify commodities subject to the practices only after consultation with the Fund and the Fund approval.

* These conclusions concerning the Fund's jurisdiction and the obligation of members apply to all members including those for whose currencies par values have not been established.

B. Practices Subject to Article XIV, Section 2

1. Restrictive Nature. Multiple currency practices, when applied to current international transactions, constitute a type of restriction on payments and transfers for current international transactions for the purposes of Article XIV, Section 2.

2. Representations by the Fund. The following language in Article XIV, Section 4 of the Fund Agreement:

"The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favourable for the withdrawal of any particular restriction or for the general abandonment of restrictions inconsistent with the provisions of any other article of this Agreement."

(a) applies at any time after the entry into force of the Fund Agreement and

(b) gives to the Fund the power to determine what is meant by "in exceptional circumstances".

3. Maintenance. Members may maintain multiple currency practices during the transitional period under the provisions of Article XIV, Section 2, but only if the maintenance of such practices is necessary for settling members' balance of payments in a manner which does not unduly encumber their access to the resources of the Fund. Members are under a duty to withdraw such practices as soon as they are able without them to settle their balance of payments in a manner which will not unduly encumber their access to the resources of the Fund. Moreover, under Section 4 of Article XIV, the Fund has certain powers to make representations in exceptional circumstances, of which it is the judge, that conditions are favourable for the withdrawal of any particular restriction. The Fund may exercise this power even if a particular restriction is justified for balance-of-payments reasons, if the conditions are favourable for the substitution of some practice which is not inconsistent with the purposes of the Agreement.

4. Introduction. Only former enemy-occupied members, which are availing themselves of the transitional provisions, and then whether or not they have existing multiple currency practices, may introduce a new multiple currency practice under Article XIV, Section 2, provided the Fund agrees with the member that the practice is necessary and does not find that it is inconsistent with the purposes of the Fund Agreement or with Article IV, Section 4(a).

5. Adaptation. A member maintaining multiple currency practices under Article XIV may adapt the existing restrictions, provided such action is consistent with the obligations of Article IV, Section 4(a) and the Fund is satisfied that the adaptation is dictated by "changing circumstances". A duty to consult with and obtain the approval of the Fund before changing the practice is implicit in both Article IV, Section 4(a) and in Article XIV, Section 2. The Fund has the power under Article XIV, Section 4, to represent in exceptional circumstances that circumstances are favourable to withdrawal of a proposal to change an existing multiple currency practice.

6. Reclassification. A member maintaining multiple currency practices under Article XIV may reclassify commodities subject to such practices, under the power to adapt restrictions in Section 2 of Article XIV, and under the same conditions, provided, however, that under the existing restrictions the effective rates are other than parity.

C. Exchange Taxes

When a tax affects an obligation undertaken by the members of the Fund, the relationship between the tax and the obligation is of direct concern to the Fund and subject to its jurisdiction. Whenever exchange taxes are used to modify par values, create multiple currency practices, or introduce restrictive exchange controls, they are subject to the Fund's jurisdiction. The Fund has authority to deal with these exchange matters irrespective of the official device or procedure involved.

D. Rates Differing from Parity by More than One Per Cent

An effective buying or selling rate which, as the result of official action, e.g., the imposition of an exchange tax, differs from parity by more than one per cent, constitutes a multiple currency practice.

ANNEX II

AMENDMENT TO ARTICLE XV: 9

Proposed by the United Kingdom Delegation

Add to sub-paragraph (a) the following interpretative note:

"It is understood that it is the intention of this paragraph to safeguard the use by a contracting party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that contracting party's special exchange agreement with the CONTRACTING PARTIES without prejudice to its obligations under paragraph 4 of this Article. This paragraph shall not be interpreted to preclude the CONTRACTING PARTIES from inviting a contracting party to discuss, with reference to the obligations of that contracting party under the General Agreement, the trade aspects of exchange controls or exchange restrictions whether or not such controls or restrictions are imposed or maintained in accordance with the Articles of Agreement of the International Monetary Fund. Similarly, the paragraph shall not be interpreted to preclude a contracting party from invoking the provisions of paragraph 1 or 2 of Article XXIII in relation to such controls or restrictions maintained by another contracting party, or to preclude the CONTRACTING PARTIES from reporting to the International Monetary Fund, in relation to the provisions of the General Agreement referred to in paragraph 5 of Article XV, or in relation to other provisions of the Agreement, on exchange controls or restrictions imposed or maintained by a contracting party."

