

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.17/19

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Limited Distribution

CONTRACTING PARTIES
Seventeenth Session

AVOIDANCE OF MARKET DISRUPTION

Note by Executive Secretary

Having considered the discussions which took place at the first meeting of the Working Party, and the further informal talks which have taken place at this session, I have come to the conclusion that whereas there appears to be no early prospect of arriving at a "multilateral solution" of the problems with which the Working Party is dealing under the first part of its terms of reference, there is a good possibility of agreement, even during the course of this session, upon procedures which would represent a considerable progress.

Much has been said about the difficulty of agreeing upon a definition of the problem. It does not, however, appear to me necessary to reach agreement on an exhaustive definition in order to make possible the measure of progress which could now be achieved. It seems to me that it would be sufficient that the CONTRACTING PARTIES recognize that there exist problems in various countries which, generally speaking, contain all or some of the elements described in paragraph II of Spec(60)230, although there are variations from case to case and there may in some cases be some other elements than those listed. There is also a fairly broad measure of agreement that many of these situations could be more constructively dealt with, and in a less restrictive manner, if they could be the subject of consultation between all the contracting parties directly or indirectly affected. The measure of progress, therefore, which I see as being now attainable is to set up machinery which would provide a mechanism for such consultation, provided that at the same time there was general agreement that contracting parties when confronted with situations of the type under discussion would avail themselves of this consultation machinery.

If these views are shared by the Working Party, I would suggest that in the Working Party report to the CONTRACTING PARTIES the following recommendations should be put forward:

The CONTRACTING PARTIES should recognize that

- (a) In a number of countries situations occur or threaten to occur from time to time which have been described as "market disruption";
- (b) These situations generally contain the following elements:
 - i. a sharp and substantial increase or potential of imports of particular products from particular sources;
 - ii. these products are offered at prices which are substantially below those prevailing for similar goods of comparable quality in the market of the importing country;
 - iii. such price differentials do not arise from governmental intervention in the fixing of prices or from dumping practices;
 - iv. there is serious damage to domestic producers or threat thereof.

In some situations other elements are also present and the enumeration above is not, therefore, intended as an exhaustive definition of market disruption;

(c) These situations have often led governments to take a variety of exceptional measures. In some cases importing countries have taken or maintained discriminatory measures either outside the framework of the General Agreement, or contrary to the provisions of the General Agreement. In some other cases exporting countries have tried to correct the situation by taking measures to limit or control the export of the products giving rise to the situation;

(d) Such measures, taken unilaterally or through bilateral arrangement, may in some cases tend to cause difficulties in other markets and create problems for other contracting parties;

(e) It is agreed that the objective of all countries involved in these situations is to find constructive solutions consistent with the basic aims of the General Agreement;

(f) It is also agreed that it would be desirable to establish procedures which would facilitate consultation between all contracting parties concerned with regard to such situations. For this purpose the Working Party on Avoidance of Market Disruption should be maintained in being as a permanent Committee of the CONTRACTING PARTIES.

(g) In addition the Committee should take over the terms of reference of the present Working Party.

(h) Contracting parties recognize that, if and when they are faced with problems of market disruption, there would be advantage in availing themselves of the facilities thus provided for consultation;

(i) These procedures shall not prejudice the rights and obligations of contracting parties under the General Agreement.