

GENERAL AGREEMENT ON TARIFFS AND TRADE

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ARTICLE XII: SCARCE CURRENCY QUESTION

1. The Australian Delegation has submitted an amendment to paragraph (5) of Article XII, reading as follows:

"5. If there is a widespread application of import restrictions under this Article, indicating the existence of a disequilibrium which is restricting international trade, the CONTRACTING PARTIES shall initiate discussions to consider whether other measures might be taken, either by those contracting parties whose balances of payments are under pressure or by those whose balances of payments are tending to be exceptionally favourable, to remove the underlying causes of the disequilibrium. On the invitation of the CONTRACTING PARTIES contracting parties shall participate in such discussions. If the CONTRACTING PARTIES consider that a state of disequilibrium exists, they shall invite the International Monetary Fund to consult with them as to possible remedies including the invocation by the International Monetary Fund of Article VII of its Articles of Agreement and a temporary release of contracting parties from obligations under this Agreement to apply quantitative restrictions in a non-discriminatory manner. If the circumstances warrant it, the CONTRACTING PARTIES may, notwithstanding the provisions of Articles XI to XV, authorize the application of quantitative restrictions against a particular contracting party for such period and on such other conditions as the CONTRACTING PARTIES may decide".

2. This amendment seeks to give effect to three principles:

(a) that there ought to be a power to release contracting parties from the general rule of non-discrimination contained in Article XIII in the event of a disequilibrium in world trade accompanied by general scarcity of a particular currency;

(b) that the ultimate authority to give such a release ought to rest with the CONTRACTING PARTIES themselves;

(c) that before such a release is given the CONTRACTING PARTIES should be under an obligation to consult with the International Monetary Fund as to the nature and causes of the disequilibrium, alternative measures that may be available and other relevant matters.

Need for a Power of Release

3. We are in fact dealing with a situation which may arise after convertibility is operating and the trade rules requiring non-discrimination in the application of import restrictions are fully operating. It is unthinkable to us that we should adopt permanent trade rules applying after convertibility which do not provide for emergency release from non-discrimination. For convertibility, however well established originally, cannot of itself guarantee that the system of world trade and payments may not at some future time so get out of balance that attempts unduly to maintain non-discrimination will break down. Failure to provide explicitly for the situation can lead to confusion, misunderstanding and unnecessary dispute at a later date.

4. Strictly, it should not be necessary to argue the need for a right to release countries from the non-discrimination rule in the event of a scarce currency situation developing. The principle already finds recognition in Article XIV:5(a) of GATT and, of course, so far as exchange restrictions are concerned, in Article VII Section 3(b) of the International Monetary Fund Agreement. It seems inherent also in Article XII:5 even as it now stand and no doubt it is a situation which could in certain circumstances be taken up under Article XXIII:1(c) and also under the proposed new Article XXII.

5. The specific provisions mentioned (XIV:5(a) of GATT and VII Section 3(b) of the International Monetary Fund) are founded upon the well-established and indeed obvious fact that if to meet a shortage of a particular currency a number of countries impose restrictions on a non-discriminatory basis there will be an unnecessary cutting back of the volume of world trade and this can set in train a downward spiral of trade. This can happen even though in the initial position countries experiencing a shortage of a particular currency may not themselves be in general balance of payments difficulties. This situation has been common enough in the post-war years and particularly in the period of the 1949 dollar crisis when countries earning enough and more than enough to balance their external accounts nevertheless found themselves short of dollars.

6. It could, of course, also happen in the circumstances we are pre-supposing, namely when a number of major currencies are fully convertible. Indeed it might in these circumstances carry particular dangers for the preservation of convertibility. If a scarcity of a major currency began to develop, e.g. because of deflation in that currency area, then some countries finding themselves running short of that currency but being unable because of the non-discrimination rule to economize in their use of it might seek to convert their holdings of another major currency into scarce currency to a greater extent than they would otherwise have done. No doubt such action would be based on the fear that convertibility could not be sustained, and indeed this could progressively undermine the position of the second major currency and at a certain point it might in fact be forced to abandon convertibility. This danger of potential concentration of pressure upon one major currency ought to be guarded against for it is quite beyond doubt that if one major currency is forced back into inconvertibility it will carry other currencies down with it into a general

collapse. All our experience shows that once a general collapse of convertibility occurs it must be a long and infinitely difficult task to restore the position. To avoid such a debacle there plainly should be some mechanism by which, if a scarce currency situation is developing, comprehensive measures can be taken in time and by common consent to bring the position under control before the forces of cumulative contraction of world trade and payments get out of hand. One such measure - a vital one - might be temporary and conditional suspension of the non-discrimination rule.

7. It is not suggested that in all situations of scarce currency the remedy lies in the suspension of the non-discrimination rule. On the contrary the remedy may be with the contracting parties in difficulty as, for example, in circumstances of inflation in deficit areas. It is true that the circumstance which many fear most is the recurrence of deflation in persistent creditor areas. This fear is widespread despite a most heartening experience to the contrary in recent years. Nevertheless, it is not the only situation and the Australian amendment does not pre-suppose that it is, although it provides for the type of decision which, in the event, may be appropriate to it. Our object is to provide the opportunity for consultation both within and outside GATT out of which preventive action can be taken by the CONTRACTING PARTIES both severally and collectively. We wish to prevent a concentration of pressures on any of the major currencies of the world which, for the lack of consultation and commonsense application of GATT and Fund rules, finally produce disastrous restrictions on trade and payments.

The Right of GATT to give a Release

8. The contention that the CONTRACTING PARTIES themselves should have the ultimate authority to give a release from the non-discrimination rule is founded on two grounds -

(a) it is right in principle that if GATT imposes a general rule on its members the CONTRACTING PARTIES under GATT should have the power to ease or mitigate or suspend that rule if and when circumstances require;

(b) it is demonstrably unsafe and unwise to make the matter depend upon the will of another body, differently constituted, established for another purpose and not responsible for the field of trade.

9. Australia has consistently maintained that if the GATT is to regulate international conduct and relationships in the field of trade, then the CONTRACTING PARTIES should be autonomous within the field of trade. This was the basis on which Australia, along with other countries, originally accepted membership of GATT and now that GATT is being revised to provide a permanent code of trade rules it is even more important that that principle should be preserved. If, on the other hand, the right to decide on certain critical issues, created by the existence of the GATT rules, is put beyond the power of GATT, then this principle of autonomy is infringed. It does not exist or, at the most, exists only partially. As GATT stands the giving of a release from

the non-discrimination rule appears wholly dependent upon a decision of the International Monetary Fund, not upon anything the CONTRACTING PARTIES may do. For anything we can see to the contrary the contracting parties would remain bound by the letter of the non-discrimination rule.

10. The Fund was created for a particular purpose and was given a particular field of responsibility, which is not the field of trade relationships. It is the field of exchange relationships and financial transfers. The Fund is differently constituted from GATT. Voting in the Fund is based not upon the fact of membership and the principle of one-country-one-vote but upon the financial quotas of its respective members.

11. Australia does not criticise the Fund as an institution nor express mistrust of its policies within its own sphere. Australia has had various transactions with the Fund, has taken part in its proceedings, has had and still has a share in its management. Australia has sought to build up the authority and status of the Fund within its area of responsibility. But it has also opposed any extension of the Fund's authority beyond the field laid down for it by its Articles. It has done so not only because that would be wrong in principle but because it would probably, in the long run, work against the best interests of the Fund.

12. There is a widespread fear that the Fund would never take action under the Scarce Currency clause of its Articles or, if it did, not until too late to avoid policies amounting virtually to the abandonment of convertibility. Apart from anything else, it is only a remote possibility that the conditions of Fund Article VII, Section (3)(b) would ever be completely satisfied because that clause requires not that a general scarcity of a particular currency shall be shown to exist, but that the Fund itself shall be short, or be threatened with a shortage of that currency. It by no means follows that because there is a general shortage of a currency the Fund itself will be short.

13. If this Scarce Currency clause of the Fund Articles never comes into play the provisions of GATT Article XIV: (5)(a) will never be available and the CONTRACTING PARTIES will be left without an effective power to deal with a state of general disequilibrium. Apart altogether from the principle of autonomy, this constitutes a radical deficiency in the Agreement. A contingency recognized to be possible and recognized to be vital, is left unprovided for.

14. If it should be asked why this matter should be given such importance now, when plans are being made for convertibility, whereas it has not appeared to matter up to the present, the answer is of course simple. Up till the present, although there have been many scarce currency situations, member countries have been able to take advantage of the transitional period provisions of GATT. But if and when convertibility is established, it can be expected that the scope of these provisions will contract and for many countries they may vanish altogether.

15. It might be argued that the position could still be taken care of under the normal power to permit deviations from Article XIII by which such deviations are related to discriminations allowed by the Fund under Article VIII (or Article XIV so far as it still applies). Here again, of course, the matter is made to rely upon Fund authority and not on the authority of the CONTRACTING PARTIES. What is more, this procedure would involve a piece-meal, country-by-country treatment in which decisions would presumably be taken on the circumstances of individual countries and not on the basis of the world trade and payments situation as a whole.

16. In all these circumstances, fears about the unwillingness and, at best, slowness of the Fund to recognize and act in a genuine and widespread situation of trade unbalance can only be mitigated by promoting mutual understanding through effective consultation between GATT and the Fund.

Obligation to consult with the Fund

17. While the need for a power, available to the CONTRACTING PARTIES, to suspend non-discrimination, can be fully established it is important also to provide for three things -

- (a) that such action will be taken only if and when it has been determined in the light of all the circumstances that it is fair and proper action to take;
- (b) that the possibility of alternative or complementary measures will be fully explored and that such other measures will be taken if found necessary and desirable;
- (c) that full account is taken of the situation and interests of the country against whom trade discrimination would be permitted.

18. As already indicated, there can be no one-sided view of the situation in advance; not all situations of scarce currency will call for discrimination against that currency. Other measures may be more appropriate. To ensure that all possibilities will be considered, it is desirable that the CONTRACTING PARTIES should consult with the Fund. Under the amendment we have proposed such consultation would be obligatory, though without impairing the final right of the CONTRACTING PARTIES to make their own decisions. The precise form of such consultation is something that can best be considered in the general context of the future organizational structure of the GATT and of the relation of the proposed new trade Organization to the Fund. We would, however, regard it as important that any consultations on issues arising from the emergence of a serious world economic unbalance should be at a high level which means, in effect, at the level of the Fund Governors (or alternative Governors) and the proposed Executive Committee of GATT. Moreover, we see importance in the early practice of consultation on issues of mutual concern. The best form and frequency of such consultation are questions which could be given attention by the new Organization when established. We have no doubt the question would be equally carefully considered by the Fund also.

19. Given effective consultation, the possibility of divergence between the Fund and the GATT becomes far less likely. While, in any case it is unthinkable that GATT members would lightly disregard the views of the Fund, joint consideration of a common set of data is more likely to promote agreement in thinking and action.

Conclusion

20. The subject of this memorandum is one of great importance to the Australian Government. Along with other Governments it has chosen to adopt convertibility as its practical aim in trade and currency relations. It wishes to see trade rules appropriate to these policies and, accordingly, accepts the rule of non-discrimination in the application of import restrictions under Article XII. To say now that a reserve power of release is necessary does not accuse or express want of confidence in any particular country or the policies of that country. Nor does it show any want of confidence that convertibility, once established, can be maintained. The very act of announcing convertibility is the answer to that fear. However, in the work of framing permanent rules governing trade, it would be irresponsible not to face the fact that at some future date a situation of acute unbalance in international trade may again arise. The contingency, we hope, is remote; we should nevertheless provide for effective consultation and, if the need is demonstrated, for proper action to limit and resolve the problem.