

RESTRICTED

GENERAL AGREEMENT ON TARIFFS AND TRADE

L/579
7 November 1956

Limited Distribution

VOTES REQUIRED FOR GRANTING WAIVERS

Statement by the Representative of Cuba at the Plenary Meeting of the CONTRACTING PARTIES on 1 November 1956

It is obvious that the Intersessional Committee's recommendations on this subject, put forward in document L/532, do not solve the problems outlined by the Cuban delegation in its statement of 2 December 1955 which was distributed to the CONTRACTING PARTIES in document L/459. At that time the Cuban delegation explained to the CONTRACTING PARTIES that, in their view, the "waivers" connected with the obligations under Part I of the Agreement should, at least in certain specific cases, be authorized by a special vote, i.e. unanimously, and not by a two-thirds majority, as hitherto, in view of the absolutely fundamental nature of the obligations contained in that Part of the Agreement, and because, on certain assumptions, the waivers referred to are tantamount to actual amendments of the obligations concerned.

That is the true position of the Cuban delegation and Government. We have never maintained, as is suggested at the beginning of paragraph 1 of document L/532, that the provisions of Article XXV:5(a) do not apply to Part I of the Agreement. That statement inadvertently attributes to us a point of view that we have at no time expressed. We have never argued that the provisions of Article XXV:5(a) cannot apply to all Parts of the Agreement. We have merely stated that, when those provisions apply to Part I and the waiver granted is by nature tantamount to an amendment of the obligation, the CONTRACTING PARTIES should require a unanimous vote in favour of granting the waiver. We do not consider it either necessary or expedient to repeat at this time the arguments set out in L/459 to prove the correctness of our views. But we do wish to make clear that not only was our thesis of a legalistic character, but it was also, of considerable importance from the point of view of the CONTRACTING PARTIES' trade policies and of the success of the GATT in liberalizing trade. It is not our fault, of course, that our legal interpretation of certain provisions of the Agreement coincides with the latter's aims; nor should be on that account regarded our thesis as merely legalistic, and without direct repercussion in other, more important fields.

Having given these explanations, we would like to state that we do not intend to press our point. We realize that a substantial majority of the CONTRACTING PARTIES, although understanding certain aspect of the problems we have stated, do not consider it either expedient or possible to lay down special voting requirements in the case of certain waivers. We also understand - much to our regret - that certain precedents are already established which, apart from their dangerous nature, make it practically impossible for the CONTRACTING PARTIES now to introduce a more restrictive policy with regard to these exceptional measures.

On these grounds, we feel bound to accept the views of the majority of the governments here represented, since there is not more satisfactory solution available.

We have no wish, however, to deny the merits of the Intersessional Committee's recommendations. There is no doubt that these proposals represent a step forward in present circumstances. The consultation procedure which is being introduced is a positive advantage. Encouraging, too, is the provision contained in paragraph (c) of the document before us to the effect that the CONTRACTING PARTIES must not grant a waiver in cases where they are not convinced that the legitimate interests of other contracting parties are adequately safeguarded. We note in these recommendations the absence of the time-limit principle, which is so basic and fundamental. But we do not wish to go on complicating the question, since there appears to be a sufficiently unanimous consensus of opinion among the CONTRACTING PARTIES in favour of the proposed solution. Our final view is that the real effectiveness of these provisions lies, not in the terms in which they are expressed but in the spirit in which they will be implemented and in the real observance by governments of the principles and purposes of the General Agreement. This brings us to the important problems discussed at the meeting of Heads of delegations. We hope that, as a result of what was said at that momentous discussion, GATT will follow its true path and find in future, when waivers are discussed, solutions regarding trade policy that are in keeping with its principles and purposes.

The CONTRACTING PARTIES' decision to accept the Intersessional Committee's recommendations on votes required for waivers and other requirements connected with these measures ends the fight put up by Cuba to make the application of the provisions of Article XXV:5(a) difficult and stringent. That fact and my Government's respect for the CONTRACTING PARTIES' decision entail certain adjustments in Cuba's policy on waivers. In the future, the Cuban Government will endeavour to adapt itself to the realities imposed on it by the GATT accordingly, our position will be more flexible and will take more account of the real damage that may be done to the CONTRACTING PARTIES' interests when any request for a waiver is discussed, thereby following the directives contained in the Intersessional Committee's own recommendation.

Before concluding, we wish to thank the CONTRACTING PARTIES, the Intersessional Committee and the Secretariat for the attention they have paid to this item of the agenda suggested by Cuba. We have been extremely gratified by the facilities granted us to discuss this matter and, in particular, by the spirit of co-operation displayed.