

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/769

30 November 1957

Limited Distribution

CONTRACTING PARTIES
Twelfth Session

FINAL REPORT OF THE WORKING PARTY ON BALANCE OF PAYMENTS

I. Consultations

1. In paragraph 1 of its terms of reference the Working Party was asked to complete the series of consultations under Article XII:4(b) programmed for 1957. It noted that in accordance with the decision taken at the Eleventh Session (see Basic Instruments and Selected Documents, Fifth Supplement, pages 48-56) the Consultations Committee appointed at that Session had carried out the consultations with Austria, Denmark, the Federal Republic of Germany, Greece, Italy, the Netherlands, Norway and Sweden, and that the reports on those consultations (L/644 and Addenda) were before the CONTRACTING PARTIES for approval. The Working Party has conducted the remaining consultations in the programme, with Australia, Brazil, Ceylon, Finland, France, India, Japan, New Zealand, Pakistan, the Federation of Rhodesia and Nyasaland, Turkey, the Union of South Africa and the United Kingdom.
2. In conjunction with these consultations, the Working Party, in accordance with paragraphs 2 and 3 of its terms of reference, also conducted the consultations with Finland, France and India under Article XII:4(b) on the measures of substantial intensification which they had introduced in their import restrictions, and the consultations with Australia, Ceylon, New Zealand, the Federation of Rhodesia and Nyasaland and the United Kingdom, under paragraph 1(g) of Article XIV. In the case of New Zealand the consultation was extended to cover the consultation required under the Decision of 20 January 1955, granting a waiver of its obligations under Article XV:6.
3. The summary reports which record the main points of the discussion during the consultations are submitted for approval in document L/746 and Addenda.
4. In accordance with the arrangement made at the Eleventh Session, the secretariat of the CONTRACTING PARTIES had prepared a "basic document" describing the systems and methods of restrictions in each of the consulting countries. In most cases these documents included a statement on "Effects on Trade" which was either drawn up by the governments concerned or, in a few cases, prepared by the secretariat on the basis of data supplied by the governments, and therefore reflecting the views of the latter. These documents were referred to in the discussion under Parts III and IV of the Plans for Consultations.
5. Pursuant to the provisions of Article XV, the CONTRACTING PARTIES had invited the International Monetary Fund to consult with them regarding these consultations and in each case the Fund had accepted the invitation to consult.

In accordance with the agreed procedures, the Fund supplied the CONTRACTING PARTIES with certain material relevant to the consultations to be held, including the results and background material from the Fund's consultations with the countries concerned. In a number of cases the Fund had prepared background papers or supplementary papers especially for the assistance of the CONTRACTING PARTIES. The date supplied by the Fund were referred to and taken into account by the Working Party in the course of the consultations and the Fund's representative participated in the discussions. The Working Party wishes to record its appreciation of the assistance thus rendered by the Fund.

6. In the course of the consultations the representatives of the consulting countries addressed the Working Party on their balance-of-payments situations and prospects, and provided information under the various headings in the relevant Plans recommended by the CONTRACTING PARTIES for consultations. The representatives of the consulting countries readily answered various questions on the different aspects of the restrictions and participated in the discussions on all questions in which members of the Working Party showed an interest. In certain cases the representatives stated that they were willing to convey the views expressed by the representatives of other contracting parties on specific points to their governments for consideration. The Working Party wishes to record its appreciation of the frank and co-operative attitude of the representatives.

7. In the light of the Decision of 5 March 1955, granting a waiver to Czechoslovakia of its obligations under paragraph 6 of Article XV, an exchange of views took place in the Working Party.

II. Proposal to amend the Waivers granted to
Czechoslovakia and New Zealand

8. The Working Party came to the conclusion that the nature of the subject-matter of the waivers being somewhat distinct from other matters covered by waivers, did not seem to require regular consultations. This appeared to have been recognized when the CONTRACTING PARTIES were considering the somewhat similar situation in the case of the provisional accession of Switzerland, where the CONTRACTING PARTIES provided for consultation upon the request of any contracting party which considered that Switzerland had taken exchange action which might have a significant effect on the application of the provisions of the General Agreement or was inconsistent with the principles and objectives of the special exchange agreement.

9. Consequently the Working Party recommends that the Decisions granting waivers to Czechoslovakia and New Zealand be amended so as to dispense with the annual consultations required irrespective of previous action by the countries concerned. A text of the decisions proposed by the Working Party is in the Annex.

10. In recommending these decisions the Working Party wishes to put on record its understanding that a contracting party desiring to consult under paragraph 3 of the Czechoslovak waiver or paragraph 4 of the New Zealand waiver, with respect to a particular exchange action, would have due regard to whether and the extent to which such action affects trade in the sense of Article XV.

III. Report on Discriminatory Import Restrictions

11. Under paragraph 4 of its terms of reference the Working Party was asked to draw up the Eighth Annual Report on the Discriminatory Application of Import Restrictions, required under paragraph 1(g) of Article XIV. The draft prepared by the Working Party is submitted for adoption in document L/751. In drawing up that Report the Working Party took account of the data supplied by the governments concerned and gathered from other sources, in particular the International Monetary Fund, and a substantial amount of information was obtained in the course of the consultations held in the past year. The Report also reflected certain general views on the maintenance of import restrictions that had been expressed by contracting parties in the course of those consultations.

IV. Action to Implement the Revised Provisions of Articles XII and XVIII:B

12. The present section deals with paragraph 5 of the Working Party's terms of reference, whereby it was instructed:

"To recommend action by the CONTRACTING PARTIES, insofar as the contracting parties which have accepted the Protocol Amending the Preamble and Parts II and III are concerned, in implementing the revised provisions of Article XII and of Section B of Article XVIII, and any changes in the intersessional procedures that may be necessary in the light of the revised provisions of these Articles."

Review of Restrictions

13. The Working Party noted that the first action to be taken by the CONTRACTING PARTIES under the revised text was provided for in paragraph 4(b) of Article XII and paragraph 12(b) of Article XVIII, viz. a review of all balance-of-payments restrictions at a date to be determined by the CONTRACTING PARTIES. According to the Notes in Annex H relating to those provisions, the date should be within ninety days of the entering into force of the amendments, in absence of reasons to the contrary.¹ As the Amending Protocol came into force on 7 October 1957, the CONTRACTING PARTIES should, therefore, determine a date not later than 5 January 1958. Taking account of all relevant factors, the Working Party recommends that the CONTRACTING PARTIES determine that the review under Article XII:4(b) and Article XVIII:12(b) be initiated on 2 January 1958 and completed at the Thirteenth Session.

14. The Working Party wishes to take this opportunity to put on record its understanding of the nature and the scope of the review. From the text of the Articles and the report of the relevant Review Working Party of the Ninth Session² it is clear that the review was intended to provide an occasion for

¹ Cf. paragraph 7 of the Review Working Party Report in BISD, Third Supplement, page 172.

² Ibid., page 172.

the CONTRACTING PARTIES to take stock of the restrictions in existence, in preparation for the effective administration of the revised provisions on a continuing basis. A factual study would be made of the general degree and extent of the restrictions applied by contracting parties as a whole, as well as the level, methods and effects of the restrictions applied by individual countries. The CONTRACTING PARTIES would also take account of all the factors both internal and external, creating the condition which necessitated the maintenance of restrictions. The Review might therefore lead to the CONTRACTING PARTIES formulating certain general observations or conclusions.

15. If the recommendation in paragraph 2 is accepted by the CONTRACTING PARTIES the Working Party recommends that the Executive Secretary be instructed to commence the substantive work of the review at the beginning of 1958. All contracting parties applying import restrictions under Article XII or section B of Article XVIII should be requested to co-operate in his task by providing information on their restrictions. In most cases this would mean the bringing up to date of the information supplied in connexion with the consultations carried out in 1957 and preparing, in consultation with the governments concerned, background data relating to contracting parties which did not consult under the 1957 consultations programme. For this purpose, the Executive Secretary should make the necessary arrangements with the governments concerned and advise them as regards the date by which information from them should be supplied. On the basis of the available information the Executive Secretary should prepare a document for discussion and approval at the Thirteenth Session of the CONTRACTING PARTIES.

16. The Working Party recognized that there was some question as to whether it would be appropriate for the review to cover the restrictions in force in countries which by the time of the review had not yet accepted the amendments to Article XII. The Working Party considers, however, that the review will so clearly be of general interest and value to all contracting parties that these countries would wish to associate themselves fully with it.

Periodic Consultations

17. In accordance with the provisions of Article XIII:4(b) and XVIII:12(b), the contracting parties applying import restrictions for balance-of-payments reasons should enter into periodic consultations with the CONTRACTING PARTIES one or two years after the initiation of the review, according to whether the country operates under Article XII or under Article XVIII. If the review is initiated at the beginning of 1958, the series of consultations with countries governed by Article XII would begin early in 1959 and those with countries acting under Article XVIII, at the beginning of 1960. The Working Party recommends that the Executive Secretary be instructed to make recommendations on arrangements and procedures for the carrying out of these consultations, for consideration by the Intersessional Committee or at the latest by the CONTRACTING PARTIES at their Thirteenth Session.

18. In drawing up his recommendations the Executive Secretary will no doubt take advantage of the experience gained in the course of the consultations held in 1957. The Working Party, for example, was of the opinion that in considering the timing of individual consultations the Executive Secretary should consult

the convenience of the consulting government, and also co-ordinate the programme as closely as possible with that of the International Monetary Fund. The International Monetary Fund has indicated that it will be prepared, insofar as feasible, fully to co-operate with the CONTRACTING PARTIES in such consultations.

Intersessional Procedures

19. In a preliminary discussion of the questions as to what changes should be made to the Intersessional procedures in the light of the revised provisions of Articles XII and XVIII:B, some members of the Working Party expressed the view that certain provisions of the present intersessional procedures¹ would not be relevant for the operation of the revised text of Article XII and of Article XVIII:B, although it would remain valid for those contracting parties which continued to operate under the old text of Article XII. Though there was general recognition that with the revision of the text the obligation to initiate a consultation relating to "substantial intensification" had passed from the CONTRACTING PARTIES to the contracting party applying the restrictions there were differences in opinion as to how the Intersessional Procedures should be amended. Owing to the lack of time the Working Party has not been able to examine the matter thoroughly enough for it to reach a conclusion. The Working Party felt, however, that in the light of past experience, the absence of precise procedural provisions during a limited period would probably not create great difficulties. It agreed that in the circumstances the matter could be deferred for careful consideration at the next Session. In the meantime any contracting parties applying restrictions under the revised Articles XII or XVIII:B, in case of uncertainty as to whether any modification of their restrictions constituted a "substantial intensification", would no doubt wish to avail themselves of the Intersessional Procedures as they now stood.

¹BISD, Fifth Supplement, p.19

ANNEX

A. AMENDMENT OF DECISION OF 5 MARCH 1955 GRANTING CZECHOSLOVAKIA A WAIVER
OF THE PROVISIONS OF ARTICLE XV:6¹

Decision of November 1957

DESIRING to modify the reporting and consultation provisions in their Decision of 5 March 1955 granting Czechoslovakia a waiver of the provisions of paragraph 6 of Article XV,

The CONTRACTING PARTIES, acting in pursuance of paragraph 5 of Article XXV,

DECIDE that:

1. Paragraph 1 of the Decision of 5 March 1955 is amended by deleting therefrom the words "annual consultations and such other consultations as may be held pursuant to this Decision, together with the information required thereof,", and by inserting in place thereof the words "such consultations as may be held pursuant to this Decision, together with the information required to be reported to the CONTRACTING PARTIES,";

2. Paragraph 2 of that Decision is amended by deleting therefrom the words "and consult with the CONTRACTING PARTIES annually on any action taken by it during the preceding year", and by inserting in place thereof the words "the CONTRACTING PARTIES promptly on any action taken by it";

3. Paragraph 3 of that Decision is amended by deleting therefrom the words "has frustrated the intent of the provisions of the General Agreement,", and by inserting in place thereof the words "may have a significant effect on the application of the provisions of the General Agreement or is inconsistent with the principles of the special exchange agreement;"; and

4. Paragraph 4 of that Decision is amended by deleting therefrom the words and figures "If as a result of the consultations referred to in paragraphs 2 and 3,", and by inserting in place thereof the words and figure "If, as a result of the consultation referred to in paragraph 3,".

¹BISD, Third Supplement, page 43.

B. AMENDMENT OF DECISION OF 20 JANUARY 1955 GRANTING NEW ZEALAND A WAIVER
OF THE PROVISIONS OF ARTICLE XV:¹

Decision of November 1957

DESIRING to modify the reporting and consultation provisions in their Decision of 20 January 1955 granting New Zealand a waiver of the provisions of paragraph 6 of Article XV,

The CONTRACTING PARTIES, acting in pursuance of paragraph 5 of Article XXV,

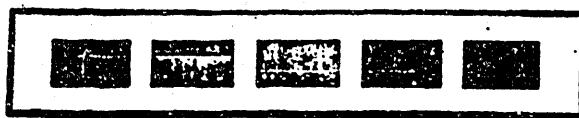
DECIDE that:

1. Paragraph 1 of the Decision of 20 January 1955 is amended by deleting therefrom the words "annual consultations and such other consultations as may be held pursuant to this Decision, together with the information required thereof,", and by inserting in place thereof the words "such consultations as may be held pursuant to this Decision, together with the information required to be reported to the CONTRACTING PARTIES,";

2. Paragraph 3 of that Decision is amended by deleting therefrom the words "and consult with the CONTRACTING PARTIES annually on any action taken by it during the preceding year", and by inserting in place thereof the words "the CONTRACTING PARTIES promptly on any action taken by it";

3. Paragraph 4 of that Decision is amended by deleting therefrom the words "has frustrated the intent of the provisions of the General Agreement;", and by inserting in place thereof the words "may have a significant effect on the application of the provisions of the General Agreement or is inconsistent with the Fund's principles."; and

4. Paragraph 5 of that Decision is amended by deleting therefrom the words and figures "If as a result of the consultations referred to in paragraphs 3 and 4,", and by inserting in place thereof the words and figure "If, as a result of the consultation referred to in paragraph 4,".



¹ BISD, Third Supplement, page 42