

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

COUNCIL

REPORT BY THE CHAIRMAN OF THE COMMITTEE ON
BALANCE-OF-PAYMENTS RESTRICTIONS

1. As announced in the statement made by the Chairman of the Committee on Balance-of-Payments Restrictions in the Council meeting of 12 March, the following report is now circulated on the informal consultations held in January-March 1985 on the proposals made by Chile and Colombia at the Council meeting of 6-8 and 20 November 1984. Consultations were held with members of the Committee and a number of other interested contracting parties. The representative of the International Monetary Fund also participated. The purpose was to provide an opportunity for the countries that had made the proposals to present their arguments more fully, and to determine what practical implications might be drawn from the proposals in the light of the reactions of other contracting parties. The bases for the discussions were the statements made at the above-mentioned Council meeting and the Aide-Memoire circulated informally by the delegation of Chile at the informal consultations of 9 January 1985. The following report on the consultations, while reflecting the discussions and the consensus that emerged on the procedures to be followed, remains on my own responsibility.

2. The Chilean delegation explained that the idea of a "preventive mechanism" in the form of prior consultations was to create opportunities for trade expansion, that would make it possible for the country facing balance-of-payments difficulties to avoid taking import restrictive measures. As a preliminary step the procedures envisaged would involve the IMF being asked to certify that there existed a balance-of-payments problem, with the co-operation of the GATT secretariat in respect of trade data. On this basis, when trade barriers seem to be an important element in the problem, the country concerned could request its main trading partners to consider the elimination of such obstacles, priority being given to those not consistent with GATT. The pre-consultations so undertaken would not necessarily avert the need for further full consultations under Article XVIII:12, in so far as restrictions were in fact imposed following the prior consultations, that is, if the reaction of the trading partners did not make it possible to avoid such measures. The delegation of Chile was of the view that the procedure proposed fell within the existing terms of reference of the Balance-of-Payments Committee. It also related this proposal to the provisions of Articles XII, XXXVI and XXXVII of the General Agreement. In substance, such prior consultations, taking place before any decision to apply restrictions was taken, would be full consultations as envisaged in Articles XII:4(a) and XVIII:12(a), and the procedures followed would be the same as those of these Articles.

3. A number of contracting parties, while expressing interest and sympathy for the approach suggested by the Chilean delegation, raised doubts about its effectiveness. They felt that the results of unilateral trade liberalization measures that might be taken by the partners of the consulting country would in any case take time to materialize, and therefore could not be expected to have a noticeable impact on the current balance-of-payments situation of that country in the short run, nor on the need for it to adopt import restrictive

measures to safeguard its balance-of-payments position. They also stressed that consideration of external factors affecting the trade of countries in balance-of-payments difficulties should not take precedence over the normal function of the Balance-of-Payments Committee, which was to examine the effects of the measures taken by consulting countries and alternative policies to restore equilibrium. Further, they felt that the Committee could be led to act outside its terms of reference if it was asked to make recommendations on what the trading partners should do to alleviate the balance-of-payments problems of the consulting country.

4. The delegation of Chile stressed that in their view, prior consultations were not a substitute for national adjustment measures and should not be viewed as an attempt to modify the fundamental rôle of the Committee.

5. After some discussion, it was recognized that in view of the text and drafting history of Articles XII:4(a) and XVIII:12(a) (BISD 3S/171) there was nothing to prevent a contracting party in balance-of-payments difficulties from holding prior consultations with the Committee, under the normal procedures of these Articles. These procedures appeared adequate to accommodate the basic purpose of the Chilean proposal. Consultations in such cases would be full consultations by the Committee to examine the nature of the balance-of-payments difficulties of the consulting country and alternative corrective measures which may be available, and would take due account of all factors, including external factors, affecting the consulting country's balance-of-payments, as laid down in the relevant procedures established for the Committee's work, including Paragraphs 2 and 3 of the 1970 consultation procedures (BISD 18S/49) and Paragraph 12 of the 1979 Declaration (BISD 26S/208), also bearing in mind the considerations set out in document C/125 which was approved by the Council in May 1984 (C/M/178, pages 24-26). If, following such consultations, the consulting country found it necessary to introduce import restrictive measures for balance-of-payments purposes, further full consultations should be held. Depending on the time elapsed since the prior consultations these might focus more particularly on the scope and effect of the measures. However, this would be up to the Committee to judge depending on the circumstances of individual cases.

6. A number of contracting parties indicated that prior consultations of the kind envisaged might raise problems of confidentiality, since the mere knowledge that such consultations were taking place might lead to speculation against the consulting country's currency and to a run on imported goods, which could only weaken that country's payments position. In this regard, the Chilean delegation felt that such unleashing of market forces should not be feared, since the purpose of the consultations would be to expand trade opportunities through liberalization, which should have positive effects on confidence. However, taking into account the general notes to Articles XII and XVIII in Annex I of the General Agreement, according to which the utmost secrecy should be preserved in respect of matters arising under those Articles (a provision which has not been invoked in recent years as consultations are normally held after the trade measures are introduced), it was felt that in preparing for prior consultations, the party requesting them could, in consultation with the Chairman of the Committee, discuss the degree of confidentiality with which it wished the documents and proceedings to be treated.

7. The proposal by the delegation of Colombia referred to a different aspect of the question of relationship between adjustment by consulting countries and supporting action by its trading partners. The concern of the Colombian delegation was to find ways and means of correcting the perceived asymmetry between the treatment of balance-of-payments measures taken by developing countries, which were all to be examined in the Committee, and the protective measures taken by developed countries which were not systematically dealt with in GATT; "grey area measures" were often not even notified. In this connection, the delegation of Colombia cited the inefficacy of existing fora such as Part IV consultations and the Sub-Committee on Protective Measures. This did not involve, however, questioning the rôle of the Balance-of-Payments Committee.

8. A number of contracting parties had difficulties with the idea that there existed a fundamental imbalance in the examination of measures taken by developing countries on one hand and developed countries on the other. They pointed to a number of GATT fora in which developed countries' measures were examined on a continuing basis, including those referred to by Colombia. Referring to the suggestions by Colombia in its statement to the Council that there should be a GATT procedure under which developing countries could make a detailed examination of developed countries' measures, they pointed out that using the Balance-of-Payments Committee for this purpose would divert it from its primary function. If looked at in relation to the balance-of-payments consultations procedures, there did not seem to be anything in the Colombian proposal that was not already covered in the earlier report by the Chairman of the Committee dealing with the trading environment confronting a consulting country (document C/125). In view of the hitherto limited experience in this field, it was stressed, however, that consulting countries wishing to invoke paragraph 12 of the 1979 Declaration should indicate this well in advance of the consultations. As regards the functioning of other GATT bodies and procedures, it was felt that this was not a matter to be judged by the Balance-of-Payments Committee.