

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.8/29/Add.1
22 October 1953

Special Distribution

Working Party 2 on Article I

PARTIAL DRAFT REPORT

Addendum

At the meeting of the Working Party on 20 October, it was agreed that paragraph 5 of the draft report (W.8/29) would be re-arranged and that drafts of two paragraphs would be prepared to be added to the report. Accordingly, the following drafts are submitted for approval:

"5. It was suggested that the possibility of increased imports of like or directly competitive products from a preferential area should be covered in paragraph 5, and in the relevant paragraphs in the procedure. The countries suggesting this felt that if, in fact, there was a diversion of trade in favour of like or substitutable products from the preferential area, this would upset the balance of advantage which they had expected to enjoy when they accepted the compromise on preferences which is embodied in Article I of the Agreement. The United Kingdom representative maintained, however, that this question was not relevant. If, as the result of action taken under the waiver to increase the rate of duty on a particular product, there was an increase in imports of other products, this would happen whether or not a corresponding duty was imposed on any imports from the preferential area. It would then in no way be due to the incidental increase in the margin of preference, but would be due entirely to the increase in the rate of duty."

"12. An earlier draft of paragraph (h) of the procedures proposed by the United Kingdom provided that if the CONTRACTING PARTIES or the appropriate intersessional body should determine in any particular case that there was a likelihood of substantial diversion, this waiver would not apply, and in that event it would be open to the United Kingdom to seek a specific waiver in respect of the item in question; to this was added a proviso, however, that it would be open to the United Kingdom to increase the duty if, in critical circumstances where imports were causing or threatening serious injury to domestic producers, the increase was necessary to prevent or remedy the injury, and in that event it would be open to contracting parties whose interests were affected by any substantial diversion which actually took place to suspend such substantially equivalent obligations or concessions the suspension of which the CONTRACTING PARTIES did not disapprove. Some members of the Working Party felt that this escape clause should be omitted. They thought that, in the event of a determination of the CONTRACTING PARTIES or of an intersessional body that substantial diversion was likely to take place, the opportunity for the United Kingdom to seek a specific waiver should be sufficient, and that the escape clause proposed by the United Kingdom was too broad in scope.

The United Kingdom, on the other hand, maintained that some alternate form of escape clause was both necessary and reasonable; and with a view to meeting the criticisms that had been made, they presented a revised draft of paragraph (h), which is now incorporated in the draft procedures. The Working Party consider that this revised draft, which provides also for negotiations and consultations with interested contracting parties with a view to the grant of compensation, is more satisfactory than the earlier text."

"13. Owing to the difference of views reflected in the foregoing paragraphs which the Working Party was unable to resolve, it has not been possible to arrive at an agreed recommendation. The Working Party agreed, however, that if the CONTRACTING PARTIES should decide in favour of granting a waiver along the lines requested by the United Kingdom, the following text would be appropriate from the technical point of view to give effect to that decision."