GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

W.9/22
19 November 1954
Special Distribution

CONTRACTING PARTIES
Ninth Session

Review Working Party I on
Quantitative Restrictions

BALANCE OF PAYMENTS IMPORT RESTRICTIONS

UNITED KINGDOM STATEMENT

made by the United Kingdom Representative
at the first meeting on Friday morning, 19 November 1954

Mr. Chairman. I wish to thank you for giving me this opportunity to give a more detailed exposition of the ideas already outlined in our previous statements regarding the rules relating to the use of quantitative restrictions for balance-of-payments purposes. At this stage of our agenda we are dealing with quantitative restrictions for balance-of-payments purposes and I shall, of course, direct my main remarks to that. I would, however, wish to recall that, as we have made clear in earlier statements, our views regarding the use of quantitative restrictions for balance-of-payments purposes are part and parcel of a general attitude towards the use of quantitative restrictions generally. This attitude is that, save for the limited exceptions of Article XI and the limited exceptions elsewhere provided for in the Agreement, quantitative restrictions should be used only for genuine balance-of-payments purposes. This is the present intention of the Agreement, this is what the Agreement provides and there should, in our view, be no question of bargaining or negotiating about the maintenance or application of this basic principle.

To turn now to the question of quantitative restrictions for balance-of-payments purposes, it is, I suggest, useful first of all to look at the rules as they now stand. In Article XII we have the rules which the drafters of the Agreement envisaged as the continuing and permanent rules to govern the use of import restrictions for balance-of-payments purposes, and these, of course, are the rules under which those of us who apply restrictions today have to justify what we do. In principle, restrictions applied under this Article are required to be non-discriminatory under Article XIII, but deviation from Article XIII is allowed under the transitional provisions of Article XIV which are available to countries so long as they are operating, and only so long as they are operating, under Article XIV as distinct from Article VIII of the Fund Agreement.

In looking to see what, if any, changes may be necessary in these provisions of the Agreement, we have, as Mr. Cohen indicated in the Working Plenary discussion, viewed the problem in two stages, with a general move to convertibility marking the transition.

A general move to convertibility of currencies will, of course, need to be followed by a short transitional period during which countries making their currencies convertible can have time to dismantle and eliminate whatever may remain of their restrictions at the time of going convertible. We thus get two stages. The first from now until the end of this short transitional stage following general convertibility and the permanent stage following the end of that transitional period.

For the first stage we suggest no changes in the rules as they at present apply, though as we indicated in the Working Plenary discussion, we agree that it would be right to consider what it may be appropriate to do to ensure the more effective supervision and implementation of the existing rules. We regard it, however, as unnecessary and inappropriate to make any changes in the rules. Changes in the rules for this interim period cannot help countries to move more quickly towards a system of freer trade and payments than the conditions in the world permit and anything which required countries to go back on the liberalization already achieved would be as unacceptable to my Government as it would be disastrous.

While it is thus in our view unnecessary and inappropriate to change the rules for this interim period, it is in our view most important to take the opportunity which the Review of the Agreement provides to satisfy ourselves that the rules are adequately strong for the conditions following convertibility. This is not the place to discuss convertibility and the various conditions which may need to be fulfilled in order to make this possible. It has, however, been fundamental to our thinking that one of the conditions is that we should get in this review of the GATT the right sort of Agreement, and that this should include the right rules regarding quantitative restrictions, including the right rules regarding quantitative restrictions for balance-of-payments purposes.

It is not in our view a question of radically altering the existing rules or introducing basically new concepts. The existing basic rules of the GATT were designed for such a multilateral system of trade and payments as that to which the collective approach looks forward.

Our thinking involves essentially two things. Firstly a strengthening, to come into effect at the appropriate stage in relation to convertibility, of the provisions of Article XII and, secondly, a switch, likewise at the appropriate stage in relation to convertibility, from the transitional provisions of Article XIV, which allow discrimination, to the basic provisions of Article XIII laying down the general principle of non-discrimination.

Convertibility of currencies brings advantages to all participating in the system of freer trade and payments which it would be designed to facilitate but it also involves risks for the countries making their currencies convertible.

If countries are to make currencies convertible and thus help to bring into effective existence a system of freer trade and payments, they will rightly and necessarily wish to be satisfied that when the time comes those with whom they are trading also behave in a manner calculated to help sustain and safeguard the system.

This means firstly that recourse to restrictions for balance-of-payments purposes should be kept as limited as possible in extent and time.

Experience since the war has shown the difficulties of getting away from restrictions imposed for balance-of-payments purposes and has revealed their many distorting effects.

Moreover, countries with convertible currencies must be satisfied that the rules safeguard them against any danger that other countries will seek to take unfair advantage of convertibility.

The General Agreement is in our view right in not requiring prior approval for the imposition of trade restrictions. It is, however, in our view important firstly that the CONTRACTING PARTIES should be able to satisfy themselves more effectively than the existing procedures provide as to the need for restrictions immediately after they are applied and, secondly, that the existing rules should be strengthened so as to ensure that restrictions once applied are not maintained longer than is strictly necessary to enable countries to take the necessary measures to enable them to dispense with the need for the restrictions. It is to this second end that we put forward our proposal for a time limit of one year for the use of restrictions, with the possibility that this might be extended, with the approval of the CONTRACTING PARTIES for, at most, a further year.

Leaving aside at this stage questions of simplifying the existing text or stripping it of dead wood, the minimum amendments necessary to Article XII to give effect to our proposals would be these.

Firstly, we envisage the addition to Article XII of a new paragraph on the following lines:-

"A contracting party invoking the provisions of this Article

(a) shall be permitted to do so for not more than one year, or with the prior permission of the CONTRACTING PARTIES for one further year thereafter;

(b) shall not, having invoked the provisions of this Article for a period, re-invoke them within one year from the end of that period."

The first part of this additional clause embodies the substance of our proposals for a time limit. The second part is designed to prevent evasion of the objectives of the provision by successive recourse to its terms with only a short gap in between.

Though we are not at this stage discussing the problems of under-developed countries in relation to the rules governing restrictions for balance-of-payments purposes, I should like to recall in passing, so as to avoid any risk of misunderstanding, that this additional paragraph we propose would be drafted so as not to apply to countries with a low standard of living and in a critical stage of their economic development. Our proposals do not, therefore, involve depriving the under-developed countries of the rights they already enjoy under Article XII of the Agreement in relation to the use of quantitative restrictions for balance-of-payments purposes.

Secondly, we envisage a modification of the relevant provisions in paragraph 4 of Article XII regarding consultation regarding the imposition or maintenance of restrictions for balance-of-payments purposes so as to establish that the consultations will be taking place with a view to securing the approval of the CONTRACTING PARTIES. The amendment we have in mind would provide that if, in the course of consultations under the Article, the CONTRACTING PARTIES determined that the restrictions proposed or being applied were inconsistent with the provisions of the Article they should recommend that the contracting party should abstain from, withdraw or modify the restrictions, and that it should be under obligation to comply with such a recommendation by such date as the CONTRACTING PARTIES might prescribe.

I pass on to the second essential requirement for conditions in which most leading currencies will have been made convertible. This is that any restrictions which any country may exceptionally need to continue to maintain or subsequently to impose should be strictly non-discriminatory. It may be useful to refer briefly to the reasons for attaching importance to this.

Firstly, the whole essence of the collective approach to a system of freer trade and payments is that it should be a move to freer trade and payments for the free world as a whole. Secondly, non-discrimination will in these conditions be necessary to strengthen the economies of all countries operating within the system. Thirdly, the full co-operation of all parties which will be necessary to the successful achievement of the objectives of the collective approach cannot be expected if discrimination is retained. Finally, the convertible currencies themselves must be safeguarded against the dangers of the system which would arise if countries remain free to discriminate against them. I wish to make it clear that in our view the firm and clear establishment of the principle of non-discrimination is a basic necessity for the conditions we have in mind.

This calls for no change in the basic provisions of the GATT. It is a question simply of providing, at the appropriate stage in relation to convertibility for a switch-over from the transitional provisions of Article XIV to the basic

provisions of Article XIII of the GATT. Just how this switch-over could most appropriately, as a matter of mechanics, be achieved, is a matter on which there may perhaps be some room for debate, and I do not propose to go into the matter in detail at this stage. The answer may depend partly on questions relating to the procedure and timetable for the amendment of the Agreement which we shall be considering elsewhere in the course of our Review of the Agreement, and partly on questions which involve another organization (i.e. the Fund). The essential point is that, one way or another, arrangements must be made to bring into effect the strict rule of non-discrimination at the appropriate stage in relation to the general move to convertibility.

Finally, there is the question of providing, as a last resort, for the possibility of discrimination against a currency which is scarce in the sense that a general shortage of it might be threatening to cause a contraction in world trade. The GATT already provides in principle for this, but the existing Article is so narrowly drafted in relation to a technical scarcity that no reliance can be placed upon its provision as an adequate safety-valve. We therefore wish to provide that trade discrimination against a scarce currency should be allowed in the GATT in the event of a finding by the International Monetary Fund that a general shortage of a currency is threatened and that no adequate, timely or effective remedies to deal with it are in sight. We shall be ready at a later stage to table the necessary drafting amendments to paragraph 5(a) of Article XIV of the GATT. It will be appreciated that it will be necessary to secure understanding as to the way the Fund should operate in relation to this provision.

This change in the rules is of a different order from the others which we propose in that it is only in the event of an emergency occurring which could not be dealt with in a constructive way that we would expect that countries as a last resort would need to fall back on discrimination under the scarce currency clause. We thus envisage it as something at the end of a long road, which we would hope in practice we should not have to reach. It is, however, in our view important politically, as well as economically, that some such ultimate safeguard as this should exist, since countries making their currencies convertible would necessarily be removing some of the existing safeguards against such a development.

Mr. Chairman, in the course of the Working Plenary debate, the Canadian delegate made the suggestion that, when this Working Party got down to work, it should deal with the questions relating to quantitative restrictions for balance-of-payments purposes in the following order:-

(1) the long-term rules

(2) IMF/GATT co-operation

(3) the administration of the existing rules in the interim period between the end of the Review and the coming into force of the long-term rules.

This seems to my Delegation to be a valuable suggestion as regards the order in which we should get to grips with these questions and I would like to suggest that, if the Working Party agree, we might decide to order our work accordingly.