

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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on Quantitative Restrictions

REPORT BY THE CHAIRMAN OF SUB-GROUP I-B

ON BALANCE-OF-PAYMENTS RESTRICTIONS

1. General

The sub-group was given the following terms of reference:

"To consider proposals that have been submitted concerning the provisions of Articles XII, XIII and XIV, to attempt in so far as possible to resolve the differences among these proposals and the various positions that have been taken concerning them, and to include in its report to the Working Party:

- (a) Recommendations designed to reconcile the differences where possible, and
- (b) A statement of the nature of any important differences that remain outstanding".

In view of the close connection between the articles included in the terms of reference and certain provisions of Article XV, the sub-group agreed that it would not be necessary to consider those provisions of Article XV which are directly connected with Articles XII-XIV, i.e. Article XV, paragraph 2. . In addition, the sub-group has discussed the question raised by the New Zealand delegation with regard to Article XV, paragraphs 6 and 7, which was specifically referred to it by the Working Party.

The group has not found it possible during the time at its disposal to go into the question of what new rules, if any, should apply during a transitional period, but has limited itself to the question of what rules should apply for the long term, i.e. after the major currencies have become convertible.

My statement will mostly be concerned with point (b) of our terms of reference, - "the nature of any important differences that remain outstanding", - although the group has been able, by reconciling initial differences to reduce the number of divergent positions that had previously been expressed.

The sub-group has, in accordance with the procedure suggested by you, Mr. Chairman, invited representatives of other delegations who were known to hold views not represented in the group to join it in the discussion of particular points raised by them. It has thus heard the views of the representatives of Canada, New Zealand, Pakistan and South Africa. I shall deal with the proposals of these delegations later in this report. However, it was found that the proposals of the South African delegation which were put forward in document L/264/Rev.1, were particularly aimed at the transitional period before currencies had become convertible, and the group did not, therefore, take up these proposals for discussion at the present stage.

Other delegations who were asked whether they wanted an opportunity to explain their points of view to the sub-group, have indicated that their views were covered by other countries represented in the group or that they did not want to press their earlier proposals.

Before dealing with the proposals for revision in detail, I should like to state, Mr. Chairman, that certain contracting parties maintain the position in principle that no substantial changes are needed or desirable in the present provisions of Articles XII-XIV (or Article XV, paragraph 2) but that a strengthening of those provisions can be carried out through a stricter application of the present rules. I may add at this point, that some of these countries, while maintaining their opinion that there is no actual need for a revision in substance, have in general no objections to a revision with the aim of bringing the Agreement up to date, through elimination of certain provisions which may be considered obsolete or unnecessary. Some of these delegations might also agree to a revision of the text of the present Agreement with a view to strengthening the consultation procedure if it is the general view that such a revision may be of advantage in order to make these provisions of the Agreement clearer and more workable. However, I shall revert to this question at its proper place.

I should now like to deal more specifically with the Articles under review.

2. Questions raised by the United Kingdom and the United States draft proposals

The sub-group took as a basis for its discussion the proposals put forward by the United Kingdom and the United States delegations - (documents W.9/73, 74 and 82) as being the most far-reaching proposals for revision. Consideration of the proposals showed that there were important differences of opinion with respect to each of the following points on which the proposals involved changes in the existing Articles.

- (a) Approval of restrictions by the CONTRACTING PARTIES.
- (b) Time limits for the application of restrictions.
- (c) Strengthening of consultations.
- (d) Token imports.
- (e) Scarce currency clause.

Further, the United States proposals if accepted would lead to the elimination of a number of provisions presently included in Articles XII and XIV.

(a) Approval by the CONTRACTING PARTIES

Both the United Kingdom and the United States proposals involve prior, or immediate post facto, approval by the CONTRACTING PARTIES of quantitative restrictions under Article XII. Both proposals also contain provisions which would make it necessary for all contracting parties maintaining quantitative restrictions at the date when the new rules come into effect to seek approval for their continuation. These proposals were supported by a number of delegations, while others felt that it must be left to the individual countries to judge whether the introduction or strengthening of balance-of-payments restrictions is necessary. They felt that sufficient safeguards against the abuse of restrictions are already contained in the present text of the Agreement, and that the CONTRACTING PARTIES should not be given a wider authority in this field than is at present contained in the balance-of-payments articles.

(b) Time-limit for application of quantitative restrictions

The United Kingdom and the United States proposed that any restrictions imposed or maintained should be eliminated after one year with the possibility of extension for an additional year with prior approval of the CONTRACTING PARTIES. Certain other delegations likewise favoured in principle the provision for time-limits, but believed that the CONTRACTING PARTIES should be able to grant an extension for more than one year. Those delegates who were opposed to the principle of approval were also against the imposition of time-limits. In the opinion of the United Kingdom and the United States a country needing to continue restrictions for a period surpassing two years should seek a waiver under Article XXV.

(c) Consultations

A strengthening of the present procedure for consultations is inherent in the United Kingdom and the United States draft proposals. It was the general feeling within the sub-group that it might be desirable to extend the consultations to all contracting parties maintaining balance-of-payments restrictions, but opinions were divided as to whether a change in the existing text of the Agreement was necessary in order to obtain this goal. However, some of those delegations who maintained in general that the provisions of Articles XII-XIV ought to be retained in their present form, were willing to consider strengthening or clarifying the language of the Agreement with a view to making the provisions apply to all contracting parties maintaining or introducing new restrictions. The Dominican Republic submitted an amendment (W.9/77/Rev.1) to the United States draft on consultation procedure to require consultation at the request of an affected country, similar to the provisions contained in the present Article XII paragraph 4.(d). The countries favouring the introduction of fixed time-limits for approval of restrictions found such a provision to be unnecessary and liable to create difficulties in practice.

(d) Token imports

The United States draft contains a proposal to strengthen the present rules in Article XII paragraph 3(c)(ii-iii) with regard to token imports. Most of the other delegations found that the present rules were adequate, whereas the delegate of Pakistan, who was asked to explain his point of view before the group, objected to the provisions of the present Agreement as well as to the provisions of the United States draft. Most members of the group found that the problem raised by Pakistan had to do with the special problems of under-developed countries, and should not be met by a change in the rules which would apply to all contracting parties. It was deemed advisable that the Pakistan delegate should discuss the problem also with sub-group A. The United States delegate felt that the question of token imports was not a separate problem for under-developed countries and that the same rule should apply to all contracting parties.

(e) Scarce Currency Clause

The United Kingdom delegation submitted a proposal for a Scarce Currency Clause in the form of a draft amendment to Article XII, paragraph 5. (W.9/82). This provides that the CONTRACTING PARTIES may request the International Monetary Fund to make a finding and a report under Article VII, Section 1 of its Articles of Agreement, as a consequence of which the CONTRACTING PARTIES may authorize the application of restrictions on imports from a persistent creditor. The United Kingdom proposal was not discussed in detail by the group; some of its members supported the proposal in principle, while others were unable to take a definite position at the present time. Certain other delegations were opposed to the inclusion of such a clause as being both unnecessary and undesirable. It was recognized that the United Kingdom proposal, if accepted, would lead to the elimination of the present paragraph 5 of Article XIV.

3. Provisions omitted in the United States draft of Article XII

I have mentioned earlier that, while the draft proposal of the United Kingdom does not involve any change in paragraphs 1-3 of Article XII the United States draft eliminates a number of the provisions presently contained in those paragraphs. The elimination of some of those provisions met with no opposition, but there was disagreement in the group on the following points:

(a) Article XII, paragraph 2(a):

The suppression of this paragraph was objected to by those delegations who took the general position that the whole Article should remain unchanged, and this view was supported by other delegations who felt that GATT should contain its own criteria for the application of balance-of-payments restrictions.

(b) Article XII, paragraph 3(b)

A number of delegations opposed the suppression of this sub-paragraph, some expressing the view that the maintenance of this provision was of particular importance, while others objected to eliminating the reference to full employment as an objective. There was, however, no general objection to the possible deletion of the reference in the sub-paragraph to "reconstruction". Other delegations supported the proposal of the United States, maintaining that the criteria contained in the sub-paragraph were not related to balance-of-payments problems, but could more properly be dealt with in Article XVIII.

4. Primary products

The Dominican Republic proposed an amendment to the United States draft providing for special rules to apply to restrictions on primary products "on the export of which the economies of other contracting parties are largely dependent", (W.9/80/Corr.1), but it was generally felt in the sub-group that it was difficult to lay down exact rules on this matter.

5. Questions relating to discrimination

(a) Article XIII

There was general agreement in the group that this Article did not need any revision. The delegate for the Dominican Republic submitted an amendment (W.9/91) intended to assure that any quotas imposed under sub-paragraph 2(d) of the Article should observe the principle established in the preamble of paragraph 2 for a distribution of trade approaching as closely as possible the shares which might be expected to obtain in the absence of restrictions. In the opinion of the sub-group this might be a matter for consideration during the final redrafting of the Agreement.

(b) Article XIV

Discussion in the sub-group took place on the basis of the draft submitted by the United States delegation. Since according to the United States proposal the question of consultation procedure is dealt with in a general way in connection with Article XIII the present Article XIV might be simplified to a large extent. A further simplification would result from the suppression of Annex J under the long term rules.

I need not repeat what I have already stated with regard to consultation procedure and I think it sufficient to mention here those provisions of Article XIV where there was some difference of opinion.

All members of the group with one exception were in favour of deleting sub-paragraph 1(a) concerning the problems of post-war adjustment.

The substitution of the text proposed by the United States for the present sub-paragraph 1(b) met with approval by most of the members of the group, but the Canadian delegation submitted an amendment (W.9/90). Both proposals have the effect of clarifying the role of the International Monetary Fund with regard to discriminatory measures, but the Canadian draft proposal substitutes a positive determination by the Fund for the present concept of "equivalent effect". The United States delegation has informed me that they are able to accept the Canadian proposal, subject to the inclusion in that proposal of a reference to special exchange agreements.

All delegations except one were prepared to accept the elimination of sub-paragraph 1(c).

The following sub-paragraphs of paragraph 1 would not need to be retained if the United States proposals are accepted and if Annex J is suppressed.

As regards Article XIV paragraph 2, a number of delegations were in favour of retaining it. The paragraph was not included in the United States or Canadian draft proposals.

The United Kingdom delegation asked for the retention of sub-paragraph 5(b) as the negotiations referred to in the sub-paragraph have not yet taken place. The only other member of the sub-group who expressed a view was in favour of its elimination.

(c) Regional arrangements

The attention of the sub-group was drawn to the proposal put forward by the Benelux delegations (L/271) for a provision to the effect that the principle of non-discrimination should not apply to contracting parties who by agreement with other contracting parties are working towards a closer integration of their economies. It was the general view of the group that it would be premature to discuss this proposal at the present time.

6. Questions relating to Article XV

As I have said, the sub-group found that its consideration of Articles XII and XIV would not be complete without taking into consideration certain of the provisions of Article XV, namely paragraph 2, which specifies the manner in which the CONTRACTING PARTIES should consult with the Fund concerning the application of those Articles, and paragraphs 6 and 7, which provide for the negotiation of a special exchange agreement between the Fund and a contracting party which is not a member of the Fund.

(a) Paragraph 2

The amendments submitted by the United States and Canada both include amendments to this paragraph. Neither draft proposed any change in substance in the first two sentences of the paragraph. Both delegations proposed changes,

however, in the final sentence of the paragraph which now provides that the CONTRACTING PARTIES shall accept the determination of the Fund as to certain facts. The United States draft would give the Fund the right not only to determine those facts but to determine whether the restrictions themselves are appropriate in the circumstances. The Canadian draft provides that the CONTRACTING PARTIES should accept the findings of the Fund as to whether and to what extent trade restrictions are necessary, but would leave to the CONTRACTING PARTIES the power to judge whether the particular measures adopted are appropriate. Some delegations opposed any change in the existing draft, though one suggested an interpretative note to make it clear that the Fund is not limited in its findings to the questions specified in the present text of paragraph 2.

(b) Paragraphs 6 and 7

The sub-group consulted with the delegation of New Zealand concerning the provisions for special exchange agreements, since that delegation had proposed the deletion of those provisions. There was little support in the sub-group for that proposal, and nearly all felt that a provision for special exchange agreements should be retained. The consensus of the members of the sub-group was that the problem presented by New Zealand could most appropriately be dealt with by a waiver under the provisions of Article XXV paragraph 5(a).

