

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/125
20 December 1954

Special Distribution

CONTRACTING PARTIES
Ninth Session

Review Working Party I on Quantitative Restrictions

PROGRESS REPORT BY THE CHAIRMAN OF THE WORKING PARTY I

1. The Working Party was set up by the CONTRACTING PARTIES to consider the rules governing quantitative restrictions taken as a whole. This examination covered the following three classes of measures:

- (a) quantitative restrictions to safeguard the balance of payments, as well as exceptions to the non-discrimination rule;
- (b) quantitative restrictions applied for reasons of economic development properly so-called;
- (c) quantitative restrictions introduced for other purposes.

2. The Working Party heard reports submitted to it by the Chairmen of the three sub-groups set up to make a detailed study of these problems. As these reports were distributed as documents W.9/101/Add.1, W.9/106 and W.9/116 and as all delegations have been able to note their contents, I shall bring to the notice of the CONTRACTING PARTIES only the results reached in the Working Party after discussion of the reports.

3. In the first place, I wish to make a few remarks concerning the discussion which took place when the Chairman of the sub-group set up to study balance-of-payments restrictions made a progress report on the work of his sub-group. This report defines with accuracy the main points discussed and on which wide differences of opinion were shown. The sub-group discussed rules regarding restrictions in general, the special case of the underdeveloped countries being held over for the time being. The same differences of opinion were maintained during the discussion in the Working Party and, so far, it has not been possible to reconcile the different points of view.

4. While certain members of the Working Party consider that a return to currency convertibility should entail the adoption of stricter rules, others continue to feel that the rules at present in force should remain unchanged in the future. The only point on which there seems to be any possibility of general approval is the proposal for strengthening and improving the consultation procedures laid down in Articles XII and XIV.

5. A most lively debate took place on the proposals relating to exceptions to the non-discrimination rule. The amendments which some delegates would like to see made in Article XIV led to objections by certain members of the Working Party who consider that the new rules would harm the underdeveloped countries, because they would prevent industrial countries from concluding bilateral agreements with the latter, after a return to convertibility. These arguments did not seem to convince the other members of the Working Party who pointed out that the present text of the Agreement permits discrimination only in so far as it is justified by reasons of a monetary nature and that the proposed amendments make no change in the situation. The Working Party subsequently discussed a proposed new text for paragraph 5 of Article XII, submitted by the United Kingdom delegation (W.9/82). This amendment would permit, in certain conditions, discrimination against a country whose currency is becoming scarce. A fairly comprehensive discussion took place in the Working Party on this proposal which, however, the sub-group had not been able to study fully. Definite differences of opinion continue to be held on this subject, which is a point on which most delegations will certainly want to request fresh instructions from their governments. Lastly, some members of the working group felt that it was not enough to provide for the possibility of discrimination in the case of a currency shortage, but that it was also essential to be able to take into consideration the general policies pursued by countries in a permanently creditor position. In this connection, the representatives of Norway and New Zealand requested that their respective proposals (W.9/112 and W.9/79) be taken into consideration when the United Kingdom proposal came up anew for discussion.

6. As regards quantitative restrictions imposed to facilitate economic development, I am happy to be able to inform the CONTRACTING PARTIES that very encouraging progress has been made. The Working Party studied the revised text drafted by the Sub-Group on the basis of the proposals submitted by the Executive Secretary (W.9/101). On the whole, the members of the Sub-Group recognized that the new version contained a number of appreciable improvements in comparison with the present text of Article XVIII and that it should be taken as a basis for further discussion. Apart from reservations made by the delegates of Canada, Italy and the United Kingdom who would envisage with great hesitation and regret the substitution of a system of prior consultation for a system of prior approval required under Article XVIII, the solution contemplated by the Sub-Group met with a very favourable reception in the Working Party. Similarly, the Working Party, with the exception of the French representative, agreed with the Sub-Group that it was logical and equitable to provide for a procedure similar to that of paragraph 3(a) of Article XIX in order to safeguard the interests of third countries when the CONTRACTING PARTIES have not given their consent to a measure taken within the context of Section C of the new Article XVIII.

7. In the text used as a working paper by the Sub-Group, it was laid down that the advantages of Article XVIII would be reserved for countries in an early stage of economic development and whose population has relatively low standards of living. These conditions would be established either on

the basis of criteria included in the actual text of the Article, or by means of a list drawn up by the CONTRACTING PARTIES, as was suggested by one member of the Working Party. The text drafted by the Sub-Group does not differ much from this fundamental idea, but it reproduces in a new Section D, a proposal to enable countries in process of development but where the standard of living is already relatively high to retain certain advantages granted to them by Article XVIII as it now stands. The Working Party has not had enough time to study this new proposal in detail, and it is therefore natural that several members reserved the position of their governments on this point.

8. I must also point out that the representatives of Cuba and India have made certain reservations regarding the definition of industries which might be entitled to benefit from the régime laid down in Article XVIII. The Cuban delegate called the Working Party's attention to the want of balance which would exist between the obligations of the various contracting parties if the industrial countries were authorized to maintain import restrictions on agricultural products while the underdeveloped countries would be forbidden to maintain similar restrictions to protect their existing transforming industries. The two delegations promised, however, to submit to their respective governments the reasons which had led the Sub-Group to propose that the benefits of the provisions of Article XVIII be reserved exclusively for new industries, new branches of production and cases of fundamental transformation of existing industries.

9. Finally, the Working Party discussed in fairly comprehensive fashion paragraph 4(ii) of the Report of the Chairman of Sub-Group I-A. This part of the report is concerned with the question whether the CONTRACTING PARTIES might be entitled to authorize recourse to paragraph 2 of Article XVIII if a contracting party were materially affected by a measure to which the CONTRACTING PARTIES had given their consent. While the conclusions arrived at by the Sub-Group after preliminary study seemed acceptable to the majority of the members of the Working Party, the representative of Canada argued that in his opinion the CONTRACTING PARTIES were justified in authorizing retaliatory measures under paragraph 2 of Article XXIII whenever a measure, even if approved by them, caused serious harm to a third country, and not only when such measure would have much more harmful effects than those foreseen at the time the measure was approved. I bring this difference of opinion to the notice of the CONTRACTING PARTIES, for it seems to me that the Working Party over which I preside may not be competent to solve this question of interpretation which, moreover, is concerned with the current provisions of the General Agreement.

10. Discussion in the Working Party showed that the study of the rules applicable to restrictions imposed to facilitate economic development are already well advanced. Of course, as long as the text of Sections A and B of the new Article XVIII have not been examined in detail and perfected, and as long as the revised text of the other Sections has not been studied at their leisure by all delegations, no government will be in a position to take a definite stand in favour of the new draft. Moreover, as indicated by the Chairman of the Sub-Group, it will be necessary to define a certain number of points in the subsequent report so as to fix the interpretation to

be given to certain parts of the text. The advanced state of the work, however, enables me to conclude with confidence that this problem which is of great importance not only from the standpoint of commercial relations between industrial countries and countries in process of economic development, but also from the point of view of international co-operation in the political field, will shortly be given a solution to which the whole world will be able to adhere.

11. I come now to the third class of quantitative restrictions with which we have had to deal. These restrictions may be justified by various reasons but their direct or indirect effect is to ensure protection for branches of national production. The discussion to which the report of the Chairman of Sub-Group I-C gave rise was concerned almost exclusively with the difficulties which the strict application of Article XI creates or may create for certain governments, either immediately or at the time the Agreement definitely comes into force, or again at the time when the postwar transitional period comes to an end. These difficulties occur mainly in the agricultural sector and affect several industrial countries which for social or political reasons have adopted the habit of protecting certain products by means of quotas and which do not see any possibility of giving up this system entirely at a time when the prohibition of recourse to quantitative restrictions will take full effect. Certain of these countries, such as the Federal Republic of Germany and the Benelux countries, are ready to abolish these restrictions gradually and as rapidly as possible, but generally speaking the countries concerned want to see this question settled in a definite and equitable fashion as part of the review of the Agreement.

12. Whatever may be the difficulties which arise in connection with the application of Article XI, the Working Party unanimously recognize that this Article is one of the cornerstones of the General Agreement and that nothing must be done to undermine it. Any weakening of this Article would involve the risk of destroying the balance of the Agreement; the maintenance of import restrictions on agricultural products would compromise the tariff concessions obtained by exporting countries for those products through previous negotiations and, as a consequence, those which they granted as a counterpart; it would also undermine the Agreement which the countries exporting agricultural products gave to the rules which govern them.

13. Although the Working Party is prepared to recognize that the difficulties brought to its notice are real and merit attentive study, it has not been able to agree on the measures to be taken to resolve them. While certain members recommend a procedure for the progressive abolition of restrictions in force, comparable to that successfully adopted by the Organization for European Economic Co-operation, and even contemplate amending Article XXV of the General Agreement so as to legalize, during a transitional period, the maintenance of these restrictions, other members argue with no less conviction that there would be a serious risk of weakening confidence in Article XI if an attempt were made at this moment to legislate in order to take account of a small number of cases which may arise in the more or less distant

future and that the possibilities offered by Article XXV as it now stands seem adequate and appropriate to regulate specific, and, be it said, dissimilar cases.

14. The differences which made themselves felt during the discussion are too profound to enable any conclusion to be drawn from the debate at present. It seems to me, however, that certain suggestions have been put forward which will enable us to outline a solution. It has been said that any waiver granted under Article XXV to meet these difficulties should bear on specific products and should be valid for a strictly limited time, that the country benefiting by the waiver should consult every year with the CONTRACTING PARTIES to enable the latter to note progress made in the gradual abolition of restrictions, and finally that country should undertake to reserve a fair share of its market for imports. Starting with such criteria, would it not be possible to define the conditions which a country would be required to fulfil in order to be able to count on the goodwill of the CONTRACTING PARTIES, if it were obliged to request a waiver under Article XXV, in order to maintain provisionally certain restrictions which it could not abolish at the time when Article XI became legally applicable to it?

15. This is another point on which delegations will undoubtedly want to request fresh instructions. And the question is important, not only as such but also on account of the repercussions which disagreement on the subject might have on the whole of our work. We have heard the representative of an important delegation declare that his government must reserve its attitude towards amendments proposed to Articles XII and XIV as long as this problem remains unclarified. We have also heard the declarations of overseas agricultural countries which have called attention to serious repercussions which any attempt to undermine Article XI might have on their attitude towards the General Agreement. I sincerely trust that on this as on other points the delegations will take advantage of the recess to obtain instructions which will allow them to find a rapid and equitable solution for this difficult problem.