

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/128

22 December 1954

Special Distribution

CONTRACTING PARTIES

Ninth Session

Review Working Party I on Quantitative Restrictions

AMENDMENTS TO ARTICLE XI

Proposals by the Dominican Delegation

1. The following proposal, to replace the present paragraph 2 et seq. of Article XI with a new text, was submitted by the delegation of the Dominican Republic to Sub-Group C shortly before the latter was required to submit its progress report.
2. The provisions of paragraph 1 of this Article shall not extend to the following:
 - (a) (present text)
 - (b) (present text)
 - (c) import restrictions on any agricultural or fisheries product as long as they are necessary to the enforcement of governmental price-support programmes of a contracting party and form an integral part of it, which operate:
 - (i) to restrict effectively the quantities of the like domestic product to be imported or produced or, if there is no substantial domestic production of the like product, of the domestic product for which the imported product can be directly substituted; or
 - (ii) (present text)
 - (iii) (present text)
3. No contracting party shall be entitled to avail itself of the provision of paragraph 2(c) of this Article for the purpose of imposing restrictions without a reasonable time-limit.
4. A contracting party applying restrictions under this Article undertakes to avoid unnecessary damage to the commercial or economic interest of any other contracting party having a substantial interest in supplying the product and in particular

(i) to maintain to the greatest extent possible a normal pattern of competitive trade

(ii) to avoid undue stimulation of domestic industries

5. With regard to import restrictions applied under the provisions of paragraph 2 (c),

(a) Such restrictions may cover products in the form in which they are originally sold by the producers and such processed forms of the product which compete directly with the original product as regards utilization so that their free importation would tend to make the restriction on the original product ineffective.

(b) The restrictions on imports of processed agricultural raw materials permitted under this Article shall not be more severe than the restrictions imposed on the unprocessed commodity. A contracting party may with the consent of the CONTRACTING PARTIES deviate from this provision for a reasonable period, provided the contracting party undertakes to remove progressively such restrictions.

(c) Such restrictions shall not be established below the level that would bring in as high a proportion of imports relative to the total of domestic production as would enter in the absence of import restrictions imposed in conjunction with domestic production or marketing restriction. The total of imports relative to the total of domestic production shall, however, not be reduced below the proportion which ruled between the two over an average of the preceding five years.

(d) In principal markets representing a major part of world demand of a primary agricultural commodity on which the economies of other contracting parties largely depend, the allocation of import quotas to individual contracting parties shall be made pro rata of the aggregate world exports of the contracting parties substantially interested in supplying the product during the preceding three years.

(e) In determining the proportions in sub-paragraphs (c) and (d) the contracting party shall pay due regard to any special factors which may have affected or may be affecting the trade in the product concerned.

6. Any contracting party maintaining, instituting or intensifying restrictions on the importation of any product under the provisions of sub-paragraph 2 (c) shall give notice of the total quantity or value of the product permitted to be imported during a specified further period and of any change in such quantity or value.

7. Any contracting party which is not applying restrictions under this Article but is intending to do so shall, before instituting such restrictions, in order to avoid unnecessary damage to the interest of other contracting parties substantially interested in supplying the product to be restricted, give notice in writing as far in advance as practical to the CONTRACTING PARTIES and to interested contracting parties in order to afford such contracting parties adequate opportunity for consultation in accordance with the provisions of paragraph 2 (d) and paragraph 4 of Article XIII before the restrictions enter into force. At the request of the importing contracting party concerned the notification and any information disclosed during consultations shall be kept strictly confidential.

8. The CONTRACTING PARTIES shall review annually all quantitative restrictions including their non-discriminatory administration report on the volume and value of those restrictions, and explore the possibilities of gradually relaxing or eliminating those restrictions. A contracting party applying import restrictions under this Article shall in the course of such review report on all relevant matters to the CONTRACTING PARTIES.

9. The CONTRACTING PARTIES may at any time invite any contracting party to enter into consultation with them regarding any subject within the scope of this Article and the contracting party so invited shall participate in the consultation and shall supply the information needed by the CONTRACTING PARTIES for the purpose of this consultation.

10. If the CONTRACTING PARTIES determine that the restrictions are being applied inconsistently with the provisions of this Article they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified in accordance with the recommendation of the CONTRACTING PARTIES within 60 days they may release any contracting party from specified obligations under this Agreement towards the contracting party applying these restrictions.

11. In cases in which import restrictions are applied under the provisions of paragraph 2 (c) of this Article against a primary agricultural commodity on which the economy of another contracting party largely depends, such restrictions shall in principle be recognized as a concession equivalent in value to the substantial reduction of high duties.

12. The provisions of this Article shall apply to any import restrictions made effective through tariff quotas or through State trading operations.

New Interpretative Notes

ad Article XI

Paragraph 5 (a)

The term "utilization" refers to the ultimate use of the products and is not used in a technical sense. For example, wheat and flour are so closely related as regards utilization that flour is to be regarded as a processed form of wheat within the meaning of this paragraph.

Paragraph 5 (c)

The term "special factors" includes changes in relative productive efficiency as between domestic and foreign producers or as between different foreign suppliers, and changes in the incidence of tariff rates which affect the competitive position between different foreign suppliers.

