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SOUTH AFRICAN AMENDMENT TO ARTICLE XIV

Statement made by the South African Representative in the Working Party on 10 February 1955

My delegation has submitted a proposal for the amendment of Article XIV to which the Government of the Union of South Africa attach considerable importance. I am referring to the South African proposal in document L/264 which was intended to limit the scope of the discrimination practised under bilateral quota agreements.

Members of the Working Party will recall that during the earlier plenary sessions in connection with the Review of the Agreement, the South African Minister of Economic Affairs drew attention to the serious injury which was being caused to the serious injury which was being caused to South Africa's export trade as a result of the discrimination practised under bilateral agreements, and expressed the view that many of these bilaterals went substantially beyond the deviations from the rule of non-discrimination permitted under Article XIV. Minister Louw also stressed that a contracting party using this type of trading device as a weapon to force another contracting party to discriminate in its favour was not observing the principle of multilateralism to which all contracting parties have committed themselves as signatories of the General Agreement.

It was precisely with the object of limiting the scope of the discrimination resulting from the operation of bilaterals, and thereby reducing the injury caused to South Africa's export trade by this type of discrimination, that my delegation proposed the amendment to Article XIV to which I have referred. What we sought to establish, was a general rule that a country invoking the provisions of Article XIV should not enter into bilateral agreements which had the effect of restricting its imports of a particular commodity from one contracting party substantially more severely than its imports of the same commodity from another contracting party where the monetary reserves available for the payment of its imports from the latter contracting party are available also to pay for its imports from the former contracting party.

When the South African proposal was discussed in Sub-Group B, it was our impression that there was, at least, a measure of support in principle for our proposal, and we have, therefore, noted with considerable concern that the Sub-Group's report not only makes no reference to our proposal, but also gives no indication of the final views thereon which were taken by members of the Sub-Group.

I should like to stress that my delegation has submitted its proposal because we genuinely believe that there is a serious omission in the existing provisions of Article XIV. It seems to us that once a contracting party has qualified for the right to discriminate in the application of balance-of-payments import restrictions there is, under the existing provisions of Article XIV, no limit to the extent to which this right to discriminate can be exercised. There is also nothing in the revised version of Article XIV proposed by the Sub-Group which would effectively remedy this omission from the Agreement.

I have already referred to the serious injury caused to South Africa's export trade by the discriminatory exclusion of our products from countries which, prior to the Second World War, represented our main export markets for these commodities. Some of these countries argue that they cannot permit the importation of South African products unless we are prepared to conclude bilateral agreements with them which would guarantee to them specific shares in our global import quotas. This argument means, in effect, that unless we are prepared to violate our obligations under the Agreement, and to discriminate in their favour, we cannot obtain a share in their import trade even if our goods are fully competitive as regards price and quality.

The pressure which these countries are exerting on us has increased considerably since October 1953, when my Government, in accordance with its obligations under the Agreement withdrew the discrimination previously practised under its import control measures against imports from dollar sources of supply. What is happening now is that we are being penalized because of the action which we took in 1953 to conform to our obligations as a contracting party. The increased pressure now being exerted on South Africa by countries which are trying to force us towards bilateral trading and to push us back on the road towards discrimination, is not only causing my Government serious concern because of its effects on South Africa's export earnings, but also raises a fundamental problem of principle in relation to the future application of the Agreement itself. It means that a contracting party which tries to move out of the régime of discrimination of Article XIV, but whose export trade is, by reason of its composition, substantially vulnerable to the discrimination of other contracting parties, could easily be pushed back on to the road of discriminatory import restrictions unless it receives some protection against the excessive use by other contracting parties of the provisions of Article XIV. South Africa is not the only country whose export trade is vulnerable in this respect,

and our proposal for the amendment of Article XIV was specifically intended to provide that measure of protection to countries such as mine to which I have just referred. If there is no such safeguard in the Agreement against the type of discrimination to which the South African proposal was directed, it would merely mean that, until such time as a general convertibility of currencies is attained, little progress, if any, will be made with the dismantling of discrimination. It seems to us that a country which is prepared to risk its monetary stability by moving out of the Article XIV régime, could easily be pushed back into that régime as a result of intensified discrimination practised against its exports by those contracting parties still invoking the provisions of Article XIV. In other words, discrimination will, for many years to come, remain the rule rather than the exception since few countries could abandon discrimination without subjecting themselves to the type of pressure now being experienced by South Africa and running the risk of being severely penalized in the markets of countries which still applied discriminatory import restrictions.

Mr. Chairman, there is a serious issue of principle involved here, and I must emphasize that my Government regard the situation which I have described as one which the CONTRACTING PARTIES should not and cannot ignore. And there is more involved than the interests of a contracting party alone - the General Agreement on Tariffs and Trade cannot go on if the CONTRACTING PARTIES close their eyes to the open flouting of commitments solemnly undertaken.