

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/197

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CONTRACTING PARTIES

Ninth Session

Review Working Party IV on Organizational
and Functional Questions

REPORT OF SUB-GROUP C

1. The Sub-Group was asked to consider proposals relating to Article XXIX, relations with non-contracting parties and full employment.

I. Proposals relating to Article XXIX

2. The Sub-Group considered the proposal to delete Article XXIX. Subject to a reservation by the representative of Brazil, the Sub-Group agreed to recommend that the matter be handled in the following way:-

- A. The whole of Article XXIX (and its interpretative note) be deleted as well as references to it and to the Havana Charter throughout the Agreement.
- B. The existing preamble to the General Agreement be deleted and replaced by the following new first Article. For convenience the text reproduced below shows the way in which it differs from the text of the existing preamble (proposed deletions are shown in square brackets, additions are underlined).

Objectives

1. The contracting parties recognize [recognizing] that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods, and promoting the progressive development of the economies of all the contracting parties.

2. The contracting parties desire to contribute [being desirous of contributing] to these objectives through this Agreement¹ by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce.

[Have through their representatives agreed as follows:]

¹ The phrase "through this Agreement" is designed to replace the final phrase in the preamble, shown in square brackets above, "have through their representatives agreed as follows".

3. If the Working Party agrees to the text proposed it may wish to refer to the Legal and Drafting Committee the questions of the deletion of the list of countries which appears at the beginning of the preamble and the numbering of the new Article. The Working Party may also wish to decide whether the new Article should form part of Part I of the Agreement.

II. Proposals relating to relations with non-members

4. The Sub-Group considered the proposal by the South African delegation for the inclusion in the Agreement of a new Article containing a provision requiring contracting parties not to enter into any new commercial agreement with a non-contracting party which precludes the latter from according to other contracting parties any benefit provided for by such agreement, and the Sub-Group recommends the following paragraph for inclusion in the Working Party's report:

"The discussion of the proposal by the South African delegation for a new Article on relations with non-contracting parties showed that the majority of the members of the Working Party were not in favour of the inclusion of such a new Article in the Agreement.

"It was pointed out, however, in discussion that one of the objectives of the Agreement is to secure the 'elimination of discriminatory treatment in international commerce'. Accordingly, if a contracting party, in concluding an agreement with a non-contracting party, seeks and receives benefits which necessarily involve the non-contracting party in discriminating in its favour and against other contracting parties, another contracting party injured by such discrimination could bring the matter to the CONTRACTING PARTIES for consideration under the provisions of Article XXIII. In considering any particular case of this nature, the contracting parties would naturally have regard to the other provisions of the General Agreement on Tariffs and Trade (including for example, paragraph 5 of Article XXIV) together with the other objectives of the Agreement as enumerated in the new objectives Article".

In relation to the last sentence, the Brazilian representative reserved his position as to the possibility of introducing a reference to Article XVIII of the Agreement and Article 15 of the Havana Charter.

III. Proposals relating to full employment

5. The Sub-Group considered the proposal by the delegation of New Zealand for an Article on full employment and recommends the following text for inclusion in the Working Party's report.

"The Working Party considered the proposal in W.9/79 of 8 December 1954 by the New Zealand delegation for the inclusion in the General Agreement of an Article on Full Employment.

"The elements of this proposed Article were:

"First, a recognition that the achievement of high and stable standards of employment were necessary to ensure an increasing flow of international trade and that the production, trade and balance of payments of individual countries could be materially affected by a decline in the level of employment in other countries.

"Second, an undertaking that members should take action not inconsistent with the provisions of the Agreement designed to achieve and maintain full and productive employment through measures appropriate to their domestic institutions (paragraph (i)).

"Third, that the Organization should have regard in the exercise of its functions under the various Articles of the Agreement to the need of members to take action to safeguard their economies against inflationary or deflationary pressure from abroad (paragraph (ii)).

"Fourth, that the Organization should in urgent cases initiate consultations with the view to considering appropriate measures designed to prevent the international spread of a decline in employment, production or demand (paragraph (iii)).

"After discussion it was the opinion of the Working Party that, in view of the present provisions of the Agreement and of changes contained in amendments agreed upon during the Review Session, it was not necessary to include this new Article and that in fact its inclusion might cause some confusion in the application of other Articles of the Agreement.

"It was considered that the matters contained in the opening clauses of the New Zealand proposal were substantially covered by the present preamble of the Agreement and that, since it had been agreed that this preamble would be transformed into an Article of the Agreement, the point sought to be covered by these clauses of the proposed amendment had been largely met.

"It was felt that the interest of every member country to seek to maintain the highest possible level of productive employment and growing demand in its own territory was so obvious that an international commitment on this point would add little if anything to this already compelling incentive.

"It was thought that the kind of action contemplated in paragraphs (ii) and (iii) of the New Zealand proposal was already provided for in existing or proposed new Articles of the Agreement. It was clear, for example, that Article XXIII contemplates that any country which considers that a situation had arisen which impeded the attainment of any objective of the Agreement, including, of course, all those enumerated in the new Article I, may refer the matter to the CONTRACTING PARTIES, which then would be obliged promptly to investigate the matter and to make appropriate

recommendations. It was clear also that in such a case the contracting parties would be free to enter into consultations with other interested international bodies which might be in the position to make a contribution to the solution to the problem presented.

"It was also clear in the view of the Working Party that it would be open to any contracting party, in any consideration by the CONTRACTING PARTIES of its obligations under specific Articles of the Agreement, to raise the kind of question dealt with in (ii) of the New Zealand proposal. For example, if a country's reserves of foreign exchange were under pressure because of deflationary influences from abroad this would certainly be a relevant consideration to be taken into account as affecting the contracting party's reserves or need for reserves under Article XII:2(a). In such a case, moreover, if the contracting party concerned felt that this pressure was resulting from the situation in some individual country it could raise the question under Article XXIII with a view either to consultations directly with such other contracting parties as it might consider to be particularly concerned, or to reference to the CONTRACTING PARTIES, in order to obtain recommendations from them or, if need be, release from specific obligations.

"Moreover, should Article XII:5 remain in the Agreement it would also provide for action by the contracting parties to consider and deal with situations of general disequilibrium restricting international trade.

"Furthermore paragraph 1 of Article XXII would enable a contracting party to raise with another contracting party any matter affecting the operation of the Agreement, while paragraph 2 of that Article would permit such matter to be considered by the CONTRACTING PARTIES.

"The Working Party, therefore, felt that the transfer of the preambulatory provisions of the General Agreement to a new Article, plus the existing provisions of Article XXIII and Article XII of the Agreement and the new article XXII, rendered the incorporation of the proposed Article unnecessary."

The New Zealand delegation does not yet know whether the general approach to the problem set out above is acceptable to its Government. If the general approach proves to be acceptable, the text set out above would be acceptable.