

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Ninth Session

Review Working Party I on
Quantitative Restrictions

DRAFT OF ADDITIONAL PARAGRAPHS FOR THE REPORT OF THE WORKING PARTY

As noted in paragraph 1 of W.9/208, Part II of the Report of the Working Party will deal with the re-drafting of Article XVIII, and the text under discussion is contained in W.9/184/Rev.1. The following text is proposed for insertion in that part of the Report to cover the amendments which have been agreed upon in Section B of Article XVIII.

1. Section B of Article XVIII contains the provisions relating to the maintenance by countries whose economy can only support low standards of living and which are in the early stages of development of restrictions on imports for balance-of-payments reasons. Although the conditions for the maintenance of those restrictions and the various procedures relating to that problem are not fundamentally different from those which are contained in Article XII of the Agreement, it has been necessary to adjust some of the provisions in order to take into account the special problems which these countries have to face. The Working Party attempted, in the drafting of paragraphs [Brazilian proposal and paragraph 9] to define the type of problems in question and to relate to a certain extent the conditions for maintaining restrictions to the needs of economic development. Paragraph [9] is modelled on the provisions of paragraphs 1 and 2(a) of Article XII, the only difference of emphasis being that the word "imminent" has been omitted from sub-paragraph (i) as it was felt that the introduction of that word was unnecessary for the type of situations envisaged.

2. Paragraphs [10 and 11] reproduce in substance the provisions of sub-paragraph 2(b) and of paragraph 3. These provisions have however been re-arranged and the thought contained in the first sentence of sub-paragraph 3(d) of Article XII has been omitted as it was already expressed in the first two paragraphs of Section B. An interpretative note has been added regarding the intent of the second sentence of paragraph [11].

3. Paragraph [12] contains the provisions relating to the consultations procedures. The main difference with the corresponding provisions of paragraphs 4 of Article XII relates to the periodicity of the consultations under

sub-paragraph (b). Instead of annual consultations, the Working Party recommends that the consultations under Section B of Article XVIII should take place approximately every two years. The proviso in sub-paragraph (b) was introduced in order to prevent that consultations with under-developed countries should take place at too short intervals, in view of the practical difficulties which those countries may have in preparing the necessary documentation and in sending experts to attend those consultations. As consultations are provided, not only periodically but also when there is a substantial intensification of the measures applied under Section B of Article XVIII, and also as a result of a challenge by a contracting party affected, it is provided that if a consultation takes place under sub-paragraph 12(a) in the case of intensification or a consultation of the same general scope under the provisions of 12(d), the next periodic consultation would be postponed so that at least two years elapse between the consultation under 10(a) or 10(d) and the next periodic consultation.

4. For the reasons set out in paragraph 1 above, the remarks and agreed statements contained in paragraphs 6 to 11 of the present Report apply also to paragraph 12 of Article XVIII.

5. An interpretative note has been added to paragraph 12(c)(ii) and (d) in order to allow a contracting party to withdraw from the Agreement at shorter notice than will be provided in Article XXVI if it finds that the operation of its programme and policy of economic development is adversely affected by measures authorized by the CONTRACTING PARTIES in accordance with the provisions of those sub-paragraphs.

6. It was also agreed to insert an additional provision in sub-paragraph (e) to the effect that when they are called upon to take any action under paragraph 12 the CONTRACTING PARTIES would take fully into account the special factors existing in the case of under-developed countries which have been described in the Preamble of the Article.

7. The Working Party did not feel it was necessary to insert in Article XVIII a provision along the lines of sub-paragraph 4(e) of Article XII and of the interpretative note relating to that sub-paragraph. It agreed, however, that the scope of consultations under paragraph 12 of Article XVIII was the same as that of consultations under Article XII and that the clarification contained in paragraph 4(e) of Article XII and in the related interpretative note would apply equally to consultations undertaken under Section B of Article XVIII.

8. The Working Party does not suggest to insert any reference to the non-discriminatory nature of restrictions maintained under Section B or to the cases in which deviations from that rule would be permitted. It considered that, the additions proposed in the text of Article XIV (see paragraph 16 above) cover the case adequately and that, from a legal point of view, any cross-reference in the text of Section B would be redundant. There is, however, one point which the CONTRACTING PARTIES might usefully consider when

they approve the amendments to the Agreement. It is proposed that the new text of paragraph 1 of Article XIV will come into force not at the same time as the other amendments to the Agreement, but on a date to be determined by the CONTRACTING PARTIES (or the Organization); it may well be that the new text of paragraph 1 of Article XIV (including the cross-reference to Section B of Article XVIII) has not entered into force at the time when the provisions of that Section become operative. It did not appear necessary to include a specific provision in the Protocol of amendment to cover that point, provided that the CONTRACTING PARTIES recognize formally that the present provisions of Article XIV would apply to restrictions maintained under Section B of Article XVIII until such time as the new text of paragraph 1 of Article XIV becomes applicable.