CONTRACTING PARTIES
Sixth Session

FINAL REPORT OF WORKING PARTY 6 ON
BALANCE-OF-PAYMENTS RESTRICTIONS

Report on paragraphs (b), (c) and (d)
of the Terms of Reference

I. Procedures for Report and Consultations in 1952 on the
Discriminatory Application of Restrictions

The Working Party was asked to recommend procedures for the preparation
of the third annual report on the discriminatory application of restrictions
and for the conduct, in March 1952 or thereafter, of consultations with contracting
parties pursuant to paragraph 1(g) of Article XIV. For these purposes the
following procedures are recommended for the approval of the Contracting Parties.

(1) The Contracting Parties shall ask each government which is taking
action under paragraph 1(b) or 1(c) of Article XIV or under Annex J,
to submit to the Executive Secretary not later than 15 March 1952, a
statement describing any changes which have taken place, subsequent to the
submission of their reply to GATT/CP/89, in import control regulations or
administrative practices which affect the discriminatory application of
Article XII restrictions, on the basis of the replies to GATT/CP/89.

(2) Any contracting party still entitled to take action under the
provisions of paragraph 1(c) of Article XIV or of Annex J should enter
into consultations with the Contracting Parties as required by
Article XIV: 1(g) by advising the Executive Secretary not later than
15 March 1952 that it is initiating consultations and by furnishing
details of the measures involved together with any information, in
addition to that contained in its statement referred to in paragraph (1),
which would assist the Contracting Parties in carrying out the consultations.

(3) The Executive Secretary shall inform all contracting parties and
the International Monetary Fund of the names of the contracting parties
which have entered into consultations, shall invite the Fund to participate
in consultations with the Contracting Parties in pursuance of the
provisions of Article XV and shall include such consultations in the
provisional agenda for the Seventh Session.

(4) The framework of cooperation between the Contracting Parties and
the International Monetary Fund is provided in Article XV of the General
Agreement. In view of the provisions of Articles XIV and XV of the
General Agreement, the Contracting Parties consider that a consultation
instituted pursuant to Article XIV: 1(g) could be concluded more effectively
at the Seventh Session if, before the end of that Session, the Fund made available to the Contracting Parties the results of its consultation with the country concerned pursuant to Article XIV of its Articles of Agreement. Accordingly, the Executive Secretary shall, before issuing the provisional agenda for the Seventh Session, consult with the Fund and the governments concerned as to the progress of the consultations of those governments with the Fund, pursuant to Article XIV of the Fund Agreement, and shall inform the contracting parties thereof when the provisional agenda is distributed. This information will assist the Contracting Parties in determining, at the Seventh Session, the order in which to proceed to conclude, in 1952, the consultations instituted pursuant to Article XIV: 1(g).

(5) The Executive Secretary shall examine the statements received under paragraph (1) and prepare material to assist the Contracting Parties in their consultations and in their preparation of the third annual report on the discriminatory application of import restrictions, this material to be distributed, if possible, prior to the opening of the Seventh Session.

II. Procedures for Action on Matters arising under Articles XII - XIV between Sessions of the Contracting Parties

1. Terms of Reference

At the suggestion of Working Party 3 on the Continuing Administration of the Agreement, the Chairman of the Contracting Parties has asked this Working Party "to review the procedures adopted at the Third Session for consultations under Articles XII, XIII and XIV as set forth in GATT/CP.3/30/Rev.1 and 50/Rev.1 and to recommend such modifications in these procedures as the Working Party considers desirable in the light of recent developments".

2. Existing Procedures

The procedures adopted at the Third Session for consultation on urgent cases arising under Articles XII-XIV while the Contracting Parties are not in session, divide such cases into four types, each of which by its particular nature is provided with a different procedure. These procedures are summarised below.

Type 1: Article XII:4 (a), Article XIII:4 (c), Article XIV:2 and Annex J:3 (proviso)

The Chairman, when receiving a request by a contracting party for consultation under any of these provisions, is required

(a) to notify the contracting parties of the request; and

(b) to determine whether the consultation should take place at the next ordinary session or at a special session or should be first entrusted to an ad hoc committee appointed by the Chairman.
Type 2: Article XII: 4(b) and Article XIII: 4

The Chairman is required, before instituting a consultation under one of these provisions, to obtain, by postal or telegraphic canvass of the contracting parties, decisions as to:

(a) whether a consultation should be initiated or whether an invitation to consult should be extended to a particular contracting party; and if the answer is in the affirmative.

(b) whether the consultation should take place at the next ordinary session or at a special session or be initiated by an ad hoc committee.

Type 3: Article XII:5, Article XIV: 1(h) and Annex J: 3 (except proviso)

Before action by the Contracting Parties is instituted under any of these provisions the Chairman is required to obtain, by postal or telegraphic canvass of the contracting parties, decisions as to:

(a) whether such action should be taken; and, if so,

(b) whether such action should be taken at the next ordinary session or at a special session or be initiated with the Select Committee, which was appointed by the Contracting Parties for that purpose. (It was understood, however, that any discussions pursuant to Article XII:5 would normally take place at an ordinary or special session).

Type 4: Article XII: 4(d)

When a proposal for action under this provision is received from a contracting party the Chairman is required to obtain, by postal or telegraphic canvass of the contracting parties, a decision as to whether such action should be taken at the next ordinary session or at a special session or be initiated with the Select Committee.

III. Recommendations

After reviewing these procedures the Working Party recommends that the following modifications be adopted with effect from the close of the present session but that the existing procedures as set out in GATT/CP.3/30/Rev. 1 and 50/Rev. 1 should otherwise continue unchanged. These recommendations have been formulated on the basis of the decision of the Contracting Parties to set up an ad hoc Committee on Agenda and Intersessional Business, which is hereafter referred to as the "Intersessional Committee" to operate until the Seventh Session. If such an Intersessional Committee should not be appointed after the Seventh Session it would be necessary to revert to the procedures adopted at the Third Session.
(a) In respect of cases of types 2 and 3, the power of deciding whether a consultation (or other action by the Contracting Parties contemplated by the relevant provision of the Agreement) should be initiated, should be given to the Intersessional Committee.

(b) In respect of cases of all the four types the Intersessional Committee should be empowered to decide whether such consultation (or other action) should be initiated at the next ordinary session or at a special session or by an ad hoc working party. Since an Intersessional Committee is in existence the Select Committee procedure, hitherto provided for cases of types 3 and 4, is not required.

(c) Any contracting party which considers that its interests are substantially affected and which is dissatisfied with a decision of the Intersessional Committee taken pursuant to paragraph (a) or (b) shall be entitled to call for the decision to be reviewed by the Contracting Parties as a whole and a final decision to be taken by them by postal or telegraphic ballot.

(d) Where it is decided in accordance with those procedures that intersessional action should be entrusted in the first instance to an intersessional ad hoc working party, the task of establishing this working party should be carried out by the Intersessional Committee.

(e) The composition of any such working party established by the Intersessional Committee should be determined in the same way as that of any working party established by that Committee in terms of paragraph 4:3 of the Report of Working Party 3 on the Continuing Administration of the Agreement, (GATT/CP.6/41) to handle matters arising intersessionally under other Articles of the Agreement.

1 It is suggested that, for convenience of nomenclature, all bodies established by the Intersessional Committee to handle matters requiring intersessional treatment under those procedures should be called "Working Parties" rather than "Committees".