CONSIDERING that all contracting parties have accepted an obligation not
to institute or maintain any prohibitions or restrictions on imports other than
duties, taxes or other charges, whether made effective through quotas, licences,
or other measures, except in so far as resort to such restrictions is specifically
provided for in the General Agreement;

CONSIDERING further that deviation from this obligation would impair the
value of tariff concessions enjoyed by contracting parties and generally prejudice the interests of contracting parties;

BEING CONVINCED that contracting parties which have been obliged, for
balance-of-payments reasons, to maintain restrictions, should, without delay,
take all the necessary measures which would enable them to remove all restric­
tions as soon as they are no longer justified either for balance-of-payments
reasons under the relevant provisions of the General Agreement or under any
other provision of the Agreement;

RECOGNIZING, however, that in certain cases restrictions have been maintained
during a period of persistent balance-of-payments difficulties spreading over a
number of years, and that some transitional measure of protection by means of
quantitative restrictions may be required for a limited period to enable an
industry having received incidental protection from those restrictions which
were maintained for balance-of-payments reasons to adjust itself to the situ­
tation created by the removal of those restrictions;

the CONTRACTING PARTIES, acting pursuant to Article XXV:5(a)

DECIDE that any decision relating to a temporary waiver of obligations of
Article XI with respect to a restriction applied on the import of one or more
products shall be taken by a majority of the votes cast, provided that the
application for such a waiver shall meet the requirements outlined in paragraph 1
below, and that the applicant contracting party is prepared to accept the under­
takings set forth in paragraph 2 below:

1 The German representative proposed to replace "would" by "could".

Spec/95/55/Rev.1
OR

RESOLVE to give sympathetic consideration to any request for a temporary waiver of the provisions of Article XI within the terms of Article XXV paragraph (a) of the General Agreement with respect to a restriction applied on the import of one or more products, provided that they are satisfied that the conditions outlined in paragraph 1 below are fulfilled, and that the applicant contracting party is prepared to accept the undertakings set forth in paragraph 2 below:

1. The applicant contracting party shall satisfy the CONTRACTING PARTIES:

(a) that the sudden removal of restrictions which have ceased to be justified by balance-of-payments reasons would result in exceptional hardship for a domestic industry having received incidental protection from these restrictions, and that the temporary maintenance of restrictions on the import of a product of that industry is necessary to enable such an industry to adjust itself to the situation created by the removal of such restrictions;

(b) that it would not be practicable at the time the request for the waiver is put forward to resort to any measure consistent with the provisions of the General Agreement to achieve the objective set forth in subparagraph (a) above;

(c) that there is a reasonable prospect of eliminating the restriction over a comparatively short period of time.

2. The applicant contracting party shall agree to undertake:

(a) to develop and apply appropriate measures (including measures of internal policy wherever appropriate) designed to ensure the elimination of the restriction within the period referred to in paragraph 1(c) above;

(b) to grant to other contracting parties as from the time the waiver is operative a fair and reasonable share of the market for the product concerned and at least to admit imports representing a total share of the market as favourable as that obtaining on the average during the three years preceding the granting of the waiver, provided that the restrictive effect of the measure shall at no time during the validity of the waiver exceed the effect of the restriction in force on 1 January 1955; and

(c) that it will carry out a policy for a progressive increase in the total amount of the product concerned the import of which is authorized and the elimination of the measure before the end of the period referred to in paragraph 1(c) above.
3. The applicant contracting party shall communicate its request for a waiver to the CONTRACTING PARTIES before it ceases to be entitled to maintain the restriction under the relevant provisions of the General Agreement to safeguard its external financial position and its balance of payments. That request shall be accompanied by the necessary information to enable the CONTRACTING PARTIES to satisfy themselves that the request meets the conditions laid down in this Resolution.

4. The CONTRACTING PARTIES DECIDE further that any waiver of the provisions of Article XI which they may grant to meet the exceptional circumstances outlined in the preamble of this Resolution shall be subject to such conditions and limitations of scope or time as they shall determine to be reasonable and necessary. Such conditions and limitations shall include the following:

(a) No restriction the maintenance of which is authorized under such a waiver shall be administered in a way inconsistent with the provisions of Article XIII or, in the case of a restriction made effective through State trading, with the provisions of Article XVII of the General Agreement;

(b) The contracting party concerned shall communicate regularly to the CONTRACTING PARTIES the total amount of the product the importation of which will be authorized by it during the following licensing period in order that they may satisfy themselves that the undertakings required under paragraph 2(b) and (c) above are being complied with;

(c) The contracting party concerned shall further submit an annual report to the CONTRACTING PARTIES in such detail as may be required, and setting out:

(i) the progress made in the relaxation of the restriction authorized;

(ii) the result of the internal measures taken to ensure the elimination of the restriction;

(iii) any change it may be proposing in the method of application of the restriction; and

(iv) if it is found necessary to maintain the restriction, the reasons for such maintenance.

(d) On the basis of that report and of any other data which may be submitted to them by other contracting parties, the CONTRACTING PARTIES shall review annually the operation of the restrictions authorized under any waiver granted in accordance with this resolution.
in the course of such a review, they find that the maintenance or application of any restriction is no longer consistent with the conditions and limitations imposed by it or with the undertakings given by the contracting party concerned in accordance with this Decision [Resolution], the waiver covering that restriction shall cease to apply after a date specified by the CONTRACTING PARTIES unless the application of the restriction is brought into conformity with the terms of the waiver by that date.

5. The CONTRACTING PARTIES AGREE, finally, that the granting of a waiver with respect to a measure affecting imports of a product the rate of which is bound under Article II of this Agreement shall not limit in any way the right of another contracting party substantially interested in the binding of that rate of duty to resort to the provisions of Article XXIII of this Agreement.

6. This Decision [Resolution] shall cease to have effect on 31 December 1959, and the validity of any waiver granted in accordance with it shall not extend beyond that date.

Texts to be inserted in the Working Party's report accompanying the text of the draft decision

Re paragraph 1(a):

The phrase "on the imports of a product of that industry" is not meant to exclude the possibility of maintaining a restriction on a product of another industry, if the absence of such a restriction would nullify the effect of the restriction authorized. For instance, if it is found necessary to restrict the import of wheat, it would be permissible to maintain also a restriction on the import of flour.

Re paragraph 1(c):

The provision of paragraph 1(c) is intended to limit the benefit of the resolution to restrictions which are clearly of a temporary or transitional nature. It would not, however, exclude from the scope of the resolution cases in which the success of the measures designed to eliminate the restriction would depend to a certain extent on factors beyond the control of the applicant contracting party, when the CONTRACTING PARTIES are satisfied that the assumptions on which the assurances given by the applicant contracting party are based.
Re paragraph 2(c):

The Working Party recommends that, when they approve the text of the Decision, the CONTRACTING PARTIES place on record their agreed interpretation of the provision contained in paragraph 2(c): "The requirement that the applicant contracting party shall carry out a policy for a progressive increase of imports does not necessarily oblige that contracting party to increase automatically each year the amounts to be imported, provided that the CONTRACTING PARTIES are satisfied that the policy followed will lead to the elimination of the measure as required. The provision of that paragraph would not prevent the CONTRACTING PARTIES from waiving that requirement in an exceptional case where they would consider that the conditions and limitations contemplated in paragraph 4 would render this requirement unnecessary".

Re paragraph 3:

The intent of paragraph 3 is to indicate that the request for a waiver should be sent to the CONTRACTING PARTIES a reasonable time before the country expects to be in a position to withdraw restrictions for balance-of-payments reasons, in order to give to the contracting parties sufficient time to consider the waiver before the provisions of Article XII are no longer applicable to the applicant contracting party and thus to avoid any breach of the Agreement through delays in the procedure. It would be reasonable to expect that the request would be sent at least one month before the country expects to remove its balance-of-payments restrictions; it would of course be desirable if this communication could be made earlier if it is feasible to do so.

Re paragraph 5:

It is agreed that the granting of a waiver in accordance with this Decision with respect to a measure affecting imports the rate of duty on which is NOT bound under Article II of this Agreement would not deprive a contracting party affected of its right to lodge a complaint under Article XXIII. It is recognized, however, that the CONTRACTING PARTIES in assessing the extent of the impairment of benefit will have to take into consideration all the facts of the case and, in particular, the fact that they have agreed after a thorough examination of the case to waive temporarily and for a specific product or products the obligations of Article XI. It would not be likely, therefore, that the CONTRACTING PARTIES could allow a contracting party to resort to the withdrawal of concessions or suspension of obligations under paragraph 2 of Article XXIII unless the effects of the measures concurred in proved to be substantially different from what could reasonably have been foreseen at the time the waiver was granted or unless the maintenance or administration of the measure is not consistent with the conditions and limitations imposed by the CONTRACTING PARTIES when they granted the waiver or the requests for modification or withdrawal made by them in accordance with the Resolution.
Note for the Report

The Belgian representative took part only in the discussions regarding the conditions for granting the dispensation and reserved the position of his delegation regarding the form of that dispensation.