SOUTH AFRICAN VIEWS ON THE REVISED ARTICLE XVIII

Statement made by the South African delegation on 4 February 1955

On numerous occasions during the Review of the Agreement both in plenary session and in the meetings of this Working Party, my delegation has pleaded most earnestly against any extension of the special facilities provided for in Article XVIII and has endeavoured to convince our fellow delegates of the genuine difficulties which the Government of the Union of South Africa are experiencing in connection with the request of the underdeveloped countries that they be granted increased freedom to use quantitative import restrictions for protective purposes. We have also questioned the wisdom of these devices, basing ourselves in this regard on our own experience.

We have urged that any such extension of the provisions of Article XVIII would represent a fundamental departure from the basic obligations which all contracting parties have undertaken to observe under the Agreement, and that countries wishing to apply quantitative import restrictions for purposes of their general economic development should be prepared to use these special facilities only with the specific approval of the Organization.

South Africa was not a member of Sub-Group A which considered proposed amendments to Article XVIII, and it is a matter of regret to my delegation that we were not afforded an opportunity for explaining to the Sub-Group our Government's special difficulties in connection with this Article.

We have, therefore, noted with considerable concern that, in the revised text of Article XVIII which has now emerged from the Sub-Group, no account has been taken of the earnest pleas we have made for sympathetic consideration of our difficulties.

Let me repeat what I said in the course of the earlier meetings of this Working Party, namely, that my Government is fully sympathetic towards, and fully understands the wishes and aspirations of countries which, being still in the early stages of their economic development, find it necessary to take special measures with a view to diversifying their economies and thus raising the living standards of their people.
We are, however, also vitally interested in the methods by which these countries are to be assisted under GATT towards the achievement of their objectives. Not only do we have important trading connections with a number of under-developed territories in our part of the world - trading connections which must necessarily be substantially affected by any special facilities granted to these territories under the Agreement - but we also believe that any extension of the provisions of Article XVIII would strike a severe blow at the very foundations of the GATT structure.

What is more, my Government cannot accept the position that an enabling provision should be written into the General Agreement by means of which a benefit accruing to South Africa under the Agreement could be impaired by a contracting party without the Organization's specific approval, whereas any subsequent action in the form of the withdrawal of substantially equivalent obligations which my Government might find it necessary to take to redress the balance of advantages accorded South Africa under the Agreement, can only be taken with the prior approval of the Organization.

Quite apart from the legal aspect of the matter, my Government feels that if freedom of action is permitted under certain circumstances to a contracting party operating under Article XVIII - action which such a contracting party can take without the Organization's approval - it is inequitable that an injured contracting party should be required to secure the prior approval of the CONTRACTING PARTIES for any action which it may find it necessary to take to redress the balance of advantages in the Agreement.

I must make it clear beyond any doubt that this is a situation which not only presents probable legal difficulties for my Government under the enabling legislation in terms of which our Parliament approved South Africa's accession to the General Agreement, but is also one which it would be politically impossible for my Government to defend when the revised Agreement is submitted to our Parliament.

I, accordingly, want to make one final appeal to this Working Party to appreciate the genuine difficulties which the provisions of paragraphs 17 and 21 of the revised Article XVIII now before us present to my Government, since this is a matter on which South Africa's further participation in GATT is largely dependent. I want to stress again that our opposition to the request of the under-developed countries for increased facilities under Article XVIII is not motivated by any ideological considerations or a lack of sympathy towards the legitimate needs of these countries, but stems from genuine difficulties which it may well prove impossible for my Government to overcome if final consideration is to be given to our acceptance of the revised Agreement.

I feel sure that the United States representative, who in other meetings during this conference has explained the difficulties of a like nature with which his Government is confronted in relation to the modification of tariff concessions pursuant to the provisions of Article XXVIII, will understand the problem with which my Government is confronted in regard to Article XVIII, and I trust that the representatives of the under-developed countries will, in this field, show the same understanding of my Government's difficulties as they have displayed towards those of the United States in respect of Article XXVIII.