

17 November 1960

DRAFT REPORT OF THE WORKING PARTY ON
AVOIDANCE OF MARKET DISRUPTION

1. The Working Party was appointed by the CONTRACTING PARTIES at their sixteenth session, by a Decision dated 3 June 1960, which sets out its programme of work and other instructions (see Annex I).
2. The Working Party met from 12 to 16 September 1960 and again during the present session. For the purpose of Part II of its Terms of Reference the Working Party agreed that the study should be conducted along the lines set out in the attached programme (Annex III). Arrangements have been made by the Executive Secretary with the International Labour Office concerning the part of the study to be jointly carried out by the GATT secretariat and that Office.
3. With respect to Part I of its Terms of Reference, the Working Party discussed various proposals. It came to the conclusion that whether or not safeguards against situations of "market disruption" were already available within the provisions of the General Agreement, there were political and psychological elements in the problems which rendered it doubtful whether such safeguards would be sufficient to enable contracting parties who are dealing with these problems outside the framework of the General Agreement or in contravention of its provisions to abandon these exceptional methods. In these circumstances it seemed unwise to embark on interpretations of relevant provisions in the General Agreement which might from other points of view be unwise and open to abuse. The Working Party felt, however, that an important measure of progress was possible at the present time along the lines set out below.

4. The Working Party was of the view that it would be desirable for the CONTRACTING PARTIES to place on record that they recognize the existence of the problem of "market disruption". Having recognized the existence of the problem the CONTRACTING PARTIES should establish procedures to facilitate consultations on these problems. In some cases bilateral consultation would be sufficient. In other cases a broader framework of consultation between all contracting parties concerned would lead to more constructive solutions.

5. The Working Party came to the conclusion that these procedural arrangements should take account of the following considerations:

- (i) that they should reflect a recognition of the problem of "market disruption";
- (ii) that contracting parties recognize the advantage of multilateral consultations in arriving at constructive solutions when the problem does not lend itself to bilateral settlement;
- (iii) that the procedures should not be such as likely to lead to restrictive solutions, but should be conducive to the expansion of international trade; and
- (iv) that existing rights and obligations under the General Agreement should not be prejudiced.

In the light of the discussion of these considerations the Executive Secretary prepared certain recommendations which were submitted to the Working Party.

In view of the short time available the Working Party was unable fully to examine the proposed text and to agree upon a final text. Consequently the Working Party has decided to transmit these draft recommendations (Annex II) prepared by the Executive Secretary to the CONTRACTING PARTIES for consideration in plenary session.

6. In submitting this, the Working Party wishes to note the following understandings which emerged from the discussion:

Paragraph (b): While it is believed that a situation of "market disruption" would normally present a continuation of the elements enumerated in this paragraph, it is recognized that a situation might arise in which other elements were present.

Paragraph (f): It is not intended that bilateral consultations should be precluded or discouraged. The mechanism for multilateral consultations is to be available to contracting parties failing to reach a satisfactory solution in bilateral consultations, or where a bilateral solution is inadequate or creates problems for other contracting parties. It should normally be expected that contracting parties engaged in bilateral consultations would notify the CONTRACTING PARTIES of the results of such consultations.

Paragraphs (h) and (i): The recommendations have been formulated in the belief that there is advantage to establishing a continuing machinery and adopting a flexible procedure to facilitate multilateral consultations. The procedures should be subject to adjustment in the light of experience. It is not intended that the existing rights and obligations of the contracting parties under the General Agreement would be affected in any way.

The Executive Secretary's proposals envisage that the Committee on Avoidance of Market Disruption should exercise a general supervision of the evolution of the problem. It is not intended that the Committee should itself conduct the multilateral consultations proposed, which would be confined to the contracting parties concerned. The Committee would, however, be available to assist and facilitate such consultations.

The Committee would also continue to search for a generally acceptable multilateral solution and it was felt that the results of the consultations would provide particularly valuable material for the pursuit of this effort. The fact that a permanent Committee was

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continually following this question would be a clear sign of its recognition by the CONTRACTING PARTIES and of their determination to find positive and constructive solutions to it.

Finally, the Committee would supervise the carrying out of the study of the social and commercial factors underlying the problem of market disruption.

ANNEX I

DECISION OF 3 JUNE ESTABLISHING THE WORKING PARTY

Desiring (1) to remove restrictions which prevent a further expansion of international trade, and (2) to mitigate the disruptive effects caused by a sharp increase in imports of a narrow range of commodities,

The CONTRACTING PARTIES

DECIDE to establish a Working Party to perform the following functions:

I

1. To consider the problems described in the report of the secretariat on "Restrictions and other measures relating to the problem of market disruption" (L/1164, 17 May 1960);

2. To suggest multilaterally acceptable solutions, consistent with the principles and objectives of the General Agreement, for those problems which, in the light of this consideration, appear to call for immediate action;

3. To submit their report to the seventeenth session.

II

The Working Party is also authorized to make appropriate arrangements for preparing a report on the various economic, social and commercial factors underlying the problems considered by the Working Party, and in particular the relevance to international trade of differences in the costs of various factors of production and marketing, including labour costs. In preparing its report the Working Party is authorized to call on experts, both governmental and non-governmental, and to seek the co-operation of the International Labour Office. The Working Party should report on its arrangements to the seventeenth session.

ANNEX II

The CONTRACTING PARTIES recognize that...

- (a) In a number of countries situations occur or threaten to occur from time to time which have been described as "market disruption";
- (b) These situations generally contain the following elements in combination:
 - (i) a sharp and substantial increase or potential increase of imports of particular products from particular sources;
 - (ii) these products are offered at prices which are substantially below those prevailing for similar goods of comparable quality in the market of the importing country;
 - (iii) there is serious damage to domestic producers or threat thereof;
 - (iv) the price differentials referred to in paragraph (ii) above do not arise from governmental intervention in the fixing or formation of prices or from dumping practices;

In some situations other elements are also present and the enumeration above is not, therefore, intended as an exhaustive definition of market disruption;

(c) These situations have often led governments to take a variety of exceptional measures. In some cases importing countries have taken or maintained discriminatory measures either outside the framework of the General Agreement, or contrary to the provisions of the General Agreement. In some other cases exporting countries have tried to correct the situation by taking measures to limit or control the export of the products giving rise to the situation;

(d) Such measures, taken unilaterally or through bilateral arrangement, may in some cases tend to cause difficulties in other markets and create problems for other contracting parties;

(e) It is agreed that the objective of all countries involved in these situations is to find constructive solutions consistent with the basic aims of the General Agreement;

(f) It is also agreed that it would be desirable to establish procedures which would facilitate consultation between all contracting parties concerned with regard to such situations. For this purpose the Working Party on Avoidance of Market Disruption should be maintained in being as a permanent Committee of the CONTRACTING PARTIES.

(g) The Committee shall take over the terms of reference of the present Working Party, as set out in L/1234.

(h) Contracting parties recognize that, if and when they are faced with problems of market disruption, there would be advantage in availing themselves of the facilities thus provided for consultation;

(i) These procedures shall not prejudice the rights and obligations of contracting parties under the General Agreement.

ANNEX III

Programme of Study of Underlying Economic, Social & Commercial Factors

(Part II of the Terms of Reference)

1. The present paper is intended to set out an initial programme of work with regard to the second part of the Working Party's terms of reference (L/1234). This programme covers only the description and preliminary analysis of data which will, in any event, have to be available as a basis for the study. It should be emphasized that this programme is therefore not a complete outline either as regards the full scope of the information which may eventually have to be collected or of the analysis which the study will contain in its final form. The purpose is rather to enable the ILO and the GATT secretariat to start at once the work which has already been the subject of consultation between the Executive Secretary and the Director-General of the ILO.
2. As is brought out by document L/1164 (and further confirmed by the statistics included in MGT(60)37), the majority of cases which have been quoted as examples of market disruption, and which involve the largest trade values, pertain to various branches of the textile and clothing industries, and cover a wide array of their many products. For these reasons, the initial collection of data will be concentrated on textiles, although it may be necessary to consider other products as the study progresses.
3. Moreover, the initial work will concern only selected countries for which information is most readily available. However, even in such countries published information will have to be supplemented by special enquiries which will require the co-operation of governments.
4. The programme of work falls into several parts:
 - (a) An attempt to measure and compare as between countries average hourly earnings and labour productivity (output per worker or per man-hour) and the structure of costs of production (including e.g. raw materials, energy, and possibly depreciation of plant and equipment, as well as labour costs per unit of output).
 - (b) A description of the value and composition of international trade in textiles, including comparisons of exports and imports with domestic production and consumption, and the importance of the textile industry to the economies of the producing countries. In this connexion an attempt will be

made to establish the amount of unused or excess capacity existing in various exporting countries.

- (c) An analysis of the effects of differences in costs of production upon the prices and volume of textiles and textile goods entering international trade. Since data on production costs can only be obtained for fairly broad sectors of industry, while cases of market disruption generally relate to quite specific commodities, this analysis may be less relevant from a short-term than from a longer-term point of view. It may, however, throw light on the extent to which the cause of market "disruption" lies in the importing or the exporting country. The results may also serve as a basis for a better appraisal of the longer-term prospects for the less developed countries to raise their export earnings through increased supplies of manufactured goods to the international markets. In this part of the analysis, attention will, of course, be given to the impact of domestic demand on the level of exports.
- (d) An examination of the economic and social consequences which such increases in supplies of manufactured goods are likely to have. This will be based on experience in recent years, showing the impact of changes in trade upon employment and economic activity, both in exporting and importing countries.
- (e) Some analysis, with concrete examples, of action which may be taken to facilitate adjustments in employment and production that would become necessary to meet changing conditions.
- (f) An examination of the economic and social factors involved in differences in wage levels, such as differences in wage levels in relation to economic development.

5. The study briefly outlined above will be a joint product of the ILO and the GATT secretariat. However, the ILO will carry the major part of the work involved in collecting and analysing information on wages, earnings, incomes, and employment, while the GATT secretariat will carry main responsibility as regards productivity, costs of production (other than wages), trade flows and their impact on economic activity.

6. The Working Party considered the foregoing suggestions, and authorised the Executive Secretary to start the study. As indicated in paragraph 1, the programme is not a complete outline of the study but, since the Working Party will carry the full responsibility for it, there will at a later stage be ample opportunity for revision and extension of the programme. The Executive Secretary will submit an interim report to the next meeting of the Working Party. The Working Party also considered the possibility of calling on outside experts to assist in the carrying out of the study, but considered a decision in this matter premature. The Working Party decided to give further consideration to this question at its next meeting, also bearing in mind that, if a positive decision were to be taken, budgetary arrangements, and the arrangements for the selection of experts would have to be made during the seventeenth session.