

Article 13. This Article is the longest and most complicated Article in the Charter. Broadly speaking it contains an exception to the basic rule of the Charter which outlaws the use of quantitative restrictions for protective purposes. It provides the mechanism and establishes the conditions under which quantitative trade restrictions may be used for protective purpose to assist in the economic development or reconstruction of a particular branch of industry or agriculture.

The preamble recognizes that economic development or reconstruction may require governmental assistance in the form of protective measures. It issues clear warning, however, that an unwise use of protective measures would endanger their own economies and introduce difficulties for other Members.

The substantive provisions deal with three categories of cases which may arise if a Member desires to adopt prohibited measures for purposes of promoting economic development and reconstruction. Articles 13 and 14 deal with measures of a non-discriminatory nature imposed on the importation of goods and make no reference to exportation.

1. If a Member desires to adopt a measure which is inconsistent with a contractual obligation undertaken pursuant to the Charter, i.e., to raise a tariff rate which was bound in the tariff negotiations, it must obtain release from Members who have contractual rights in respect of the product in question. The Member seeking release may enter into direct negotiations with other Members enjoying contractual rights or do so through the Organization. In the latter case the procedure is somewhat easier by virtue of the fact that the organization selects from among Members with contractual rights only those which are materially affected. Substantial agreement must be reached with all materially affected Members enjoying contractual rights before release is granted to adopt the proposed measure.

2. If a Member desires to adopt a measure for purposes of economic development which is both inconsistent with a negotiated commitment, and with provisions of the Charter, i.e., to impose a quota on a product for which the tariff rate was bound pursuant to negotiations, it must proceed according to the procedure laid down under 1, that is, obtain release by negotiation with Members enjoying contractual rights. In addition, all other materially affected Members, though not enjoying contractual rights, must be given a fair hearing before release is granted.

In both sets of cases, if the development programme is jeopardized by a serious increase in imports during the process of negotiations, the Member is permitted unilaterally to adopt temporary restrictive measures to compensate and adjust for the abnormal flow of imports in order to maintain the level of imports prevailing before the application was made. Such temporary restrictions must be abandoned once negotiations are completed or discontinued. To prevent abuse, and because contractual rights are involved, a safeguard is included whereby Members whose contractual rights are impaired, may withdraw equivalent obligations of which the Organization does not disapprove.

3. If a Member desires to adopt a measure for purposes of its economic development, which is inconsistent with provisions of the Charter, i.e., to impose a quota on a product for which the tariff rate is unbound, it must make application to the Organization and submit its case in support of the measure. There are three procedures under which release may be obtained to adopt the proposed measure.