

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED

LIMITED B
GATT/CP.3/SR.3
13 April 1949

ORIGINAL: ENGLISH

Contracting Parties

THIRD SESSION

SUMMARY RECORD OF THE THIRD MEETING

Held at Hotel Verdun, Annecy,
on Wednesday, 13 April 1949, at 2.30 p.m.

Chairman: Hon. L.D. WILGRESS (Canada)

Subjects Discussed:

1. Import Restrictions Imposed by the Union of South Africa
2. Non-discriminatory Measures Notified under Article XVIII

1. The Import Restrictions Imposed by the Union of South Africa
in accordance with Article XII 2(a)(i) and Article XIV 1(b).

(GATT/CP/3 and GATT/CP.3/3 & Add.1 with Annex 1)

Mr. NORVAL (Union of South Africa) presented the case for his Government in a statement which, in view of the importance of its contents, is reproduced in full and annexed to this Summary Record (See Annex)

Mr. BRONZ (United States) said that great importance had been attached to the procedure of consultation during the drawing up of the General Agreement, and for the benefit of the future functioning of the Contracting Parties, opportunity should be taken of the present case to study the correct procedure of consultation to be followed in future under Article XII 4 (a). Although the fact that the South African Government did not communicate to the Chairman of the Contracting Parties until the restrictions had been actually

imposed had not made a material difference in the present case, the correct procedure should, nevertheless, be expounded so that in future consultation would normally be instituted when a government was considering the imposition of such measures and not after it had come to a decision. He also suggested that a scheme should be designed and recommended to the Union of South Africa for facilitating token imports in accordance with Article XII 3 (c) (ii). For giving effect to the provisions of Article XII 3 (c) (iii) there should be established a procedure for examining the effects of such measures on the interests of other Contracting Parties. And finally, the South African Government should be requested to supply further information on any modification of these restrictions which might have occurred since November and on their possible development after next July. He proposed that a working party should be set up to review, and recommend on the circumstances of, these restrictions.

Mr. van BLANKENSTEIN (Netherlands), speaking for the Benelux delegations, referred to certain divergencies between the South African letter of 12 November 1948 and the statistics in the memorandum prepared by the International Monetary Fund regarding the Union's sterling situation, and suggested to request the South African Government for more precise information on the exact situation in which these restrictions were imposed as well as on their form and nature; then the Contracting Parties would be able to decide whether the restrictions were permissible under the provisions of the General Agreement. He seconded the motion to set up a working party.

Mr. PHILIP (France) was also in favour of a working party being established, to examine both the financial and commercial aspects of these restrictions.

Mr. HOLMES (United Kingdom), while not opposed to relegating the work to a sub-body of experts, thought that great care should be taken in drawing up its terms of reference. With reference to the suggestion made by the representative of France, he thought that only the commercial aspects of the measures would fall appropriately within the scope of the present item.

Mr. PERRY (Canada) was interested in knowing to what extent discrimination was involved in the restrictions. He supported the proposal to set up a working party.

Mr. NORVAL (South Africa) said that since the financial restrictions had been fully dealt with by the Fund in connection with its approval of the exchange restrictions, it was only the quantitative restrictions which should be studied by the proposed working party.

Mr. HEWITT (Australia) referred to the remarks made by the representative of the United States regarding the consultation requirements of Article XII 4 (a) and drew attention to the history of these provisions; great importance was attached by his Government to the provision that in certain circumstances consultations might be instituted after restrictions had been imposed. As for the terms of reference of the working party, he thought they should be confined to the matters referred to in paragraph 4(a) of Article XII. Concerning the question of discrimination raised by the representative of Canada, he thought that the reference to Article XIV 1 (b) in the South African letter was made in connection with the rationing of exchange, an action which had been approved by the Fund and which did not lie within the sphere of interest of the Contracting Parties.

Mr. BRONZ (United States) thought that the terms of reference as advocated by the representatives of the United Kingdom and Australia were too restricted. Although the exchange restrictions were not subject to re-examination by the Contracting Parties, the working party should not be precluded from studying them in view of the close relation between the trade restrictions and the problems of the monetary reserves and balance of payments. The working party should therefore be authorized to review all relevant matters in the light of paragraph 2 of Article XV.

Mr. HERRERA-ARANGO (Cuba) suggested that the terms of reference should also cover a review of the situation of the countries whose interests were affected by the restrictions.

The CHAIRMAN proposed that the Working Party should be directed "to review, within the terms of Article XII 4 (a) and having regard also to provisions of paragraph 3 (a), the situation created by the import restrictions, and the procedure of consultation under Article XII 4 (a);" and "the Working Party should consult with the representatives of the Fund."

Mr. ROWE (Southern Rhodesia) thought that the point mentioned by the representative of Cuba was perhaps not covered by the terms of reference proposed by the Chairman since paragraph 4 (a) seemed to refer only to consultation on the possible effect of the alternative corrective measures on the economies of other contracting parties.

Mr. BRONZ (United States) could not agree to this interpretation as he thought that the clause in question referred to the possible effect of the restrictions themselves.

Mr. HEWITT (Australia) said that the provisions of paragraph 3 (c) should not be included within the terms of reference. Moreover, there seemed to be some inconsistency between the terms of reference suggested by the Chairman, which required the working party to "review" the situation, and the provisions of Article XII 4 (a) which set down definite subjects for consultation.

Mr. NYS (Belgium) stated that since the matter was one which involved the provisions of many articles of the Agreement, it would be neither desirable nor practicable to limit the mandate of the Working Party within the terms of a single sub-paragraph, if all factors relevant to restrictions were to be taken into consideration.

In replying to the representative of Australia the CHAIRMAN pointed out that the consultation referred to in paragraph 4 (a) was to be between a contracting party and the Contracting Parties. For the sake of clarity, he would suggest, however, stating explicitly in the terms of reference that the Working Party was to review the situation "in order to facilitate the conclusion of consultations between the Union of South Africa and the Contracting Parties."

Mr. HEWITT (Australia) expressed the opinion that any examination of the procedure of consultation under Article XII 4 (a) should be made for the purpose of facilitating the future operation of the Agreement and that the Working Party should in no circumstance be required to deliberate on the procedure which had been followed by the Union of South Africa, since, by virtue of the provision in paragraph 4 (a) which permitted posterior consultation when prior consultation was impracticable, there was nothing in the steps taken by the Government of South Africa which would expose it to challenge or criticism.

Mr. BRONZ (United States) affirmed the position of his Government that even though the variation in the procedure actually followed by South Africa was not a matter of importance, the correct procedure should nevertheless be clarified as it would be of great importance for the future of the Agreement. On these grounds he would favour the retention of the reference to the procedure of consultations in the terms of reference for the Working Party.

(Discussion on this item to be resumed at the next meeting.)

2. Examination of the Statements Submitted in Support of the Non-discriminatory Measures Notified under Paragraph 11 of Article XVIII (GATT/CP.3/8 and GATT/CP.3/1/Add.5.)

Mr. HEWITT (Australia) recalled the procedure laid down at the Second Session in regard to the notified measures, which involved the submission of supplementary statements and the lodging of objections. Since the time-limits had not been adhered to in all cases, the first task at this session would be to decide whether a variation in the procedure laid down should be accepted. Secondly, it had been found during previous sessions that certain measures notified under paragraph 11 did not fall appropriately within the scope of its provisions and it was likely that some of the remaining measures might be found upon close examination to be of the same nature; the question of eligibility of the measures should, therefore, also be considered. Thirdly, decisions must be taken at this session on questions of substance: whether any of these measures materially affected the interests of any contracting party and the period of time in which the measures could be maintained. Finally, it might also be found desirable or necessary to lay down a procedure for the acceptance of notifications of measures maintained by acceding

countries at the time of their accession.

Mr. de VRIES (Netherlands) elucidated the communication from his Government contained in GATT/CP.3/1 Add. 1 and affirmed the position of his Government that when Article XII should cease to be applicable his Government should not be precluded from resorting to Article XVIII and applying the notified measures as new measures and that they should then be considered under the relevant paragraphs of that Article.

Mr. EVANS (United States) supported the views expressed by the representative of Australia. As regards any measure which had ceased to be in force under paragraph 11 of Article XVIII, he concurred with the representative of the Netherlands that it should be regarded as a new measure in the event of a renewed application being made under Article XVIII. The date set out in the original procedure for the lodging of objections could not be regarded as valid in respect of those measures for which supplementary statements were not filed in accordance with the procedure and his Government had therefore reserved its right to object to these measures during the present session. Both the questions of substance and eligibility should be considered by the Working Party as well as the procedure to be adopted in respect of new measures notified hereafter.

Mr. DESAI (India) maintained that when a measure which was applied under Article XII should cease to be applicable under that Article, a Government should not be precluded from reverting to the provisions of paragraph 11 of Article XVIII and continue to maintain it as a measure for economic development if the measure had been formerly notified under that paragraph.

Mr. HOLMES (United Kingdom) said that this question should be regarded as a part of the general question of eligibility which would be one of the major questions to occupy the Working Party's attention. In view of the belated submission of certain supplementary statements, the Contracting Parties should be entitled to raise the question of substance during the session irrespective of the procedure which required the lodging of objections before a certain date. He also proposed that a procedure similar to the one laid down at the second session in regard to measures notified between sessions should be formulated for the period between the third and fourth sessions.

Discussion of this item to be resumed at the next meeting.

The meeting adjourned at 5.45 p.m.

Statement by the Leader of the South African Delegation:

Mr. Chairman,

1. In document GATT/CP.3/ dated 16 December 1948, was reproduced the text of a communication from my Government to the Contracting Parties announcing that, as a result of a serious and persistent decline in its monetary reserves, the Union of South Africa had found it necessary to impose certain restrictions on imports.

The import restrictions applied by the Union are of a two-fold character:

(i) exchange restrictions by which the provision of non-sterling currency for imports from non-sterling countries during the period July 1948, to June 1949 is limited to 50 per cent of that used in 1947, supplemented in the case of machinery and essential materials. These restrictions were applied after consultation and with the approval of the International Monetary Fund, under Article VIII of the Fund Agreement, and

(ii) prohibition of imports of non-essential consumer goods irrespective of the country of origin.

2. The Union Government's communication also briefly outlined the basic causes of disequilibrium in the Union's balance of payments and gave an indication of some of the alternative corrective measures which were introduced prior to the enforcement of exchange rationing in an effort to call a halt to the uninterrupted drain on the country's monetary reserves.

3. Representatives of the Contracting Parties will meanwhile have received also copies of Document GATT/CP.3/3/ Add.1/Annex 1/ of 5 April, containing a Memorandum prepared by

the International Monetary Fund regarding the currency restrictions imposed by South Africa.

The Fund's Memorandum has drawn particular attention to the following basic causes of disequilibrium in the Union's balance of payments:

(i) the growing deterioration in our terms of trade with other countries due primarily to the fact that the price of South Africa's principal export product, namely, gold, in terms of the currencies of our principal suppliers has remained practically unaltered since the beginning of the Second World War whilst the prices of commodities and services which we require from them have risen very considerably and have, in many cases, not yet ceased to rise;

(ii) the country's abnormal requirements of imported supplies resulting from replenishment after the war of depleted stocks of consumers' goods, the replacement of machinery, plant and equipment worn out during the war, the opening of the new goldfields in the Orange Free State, the establishment of new industries as well as the expansion of existing industries and related activities; and

(iii) the undue increase in the supply of money in the Union, caused, mainly, by the unprecedented influx of flight capital and, to a lesser extent, also by the increase in bank credit, both of which have helped to accentuate the effective demand for goods from abroad. Whilst the capital came almost exclusively from sterling area countries, it accentuated the demand in the Union for goods from both sterling and non-sterling sources of supply.

4. The information submitted in the Fund's report clearly sets out the position with regard to the Union's balance-of-payments

difficulties and there is nothing I would wish to add to it, except perhaps to emphasise that the facts given by the Fund should not be interpreted as an indication that South Africa's financial situation has become basically unstable.

5. Our big danger has been the continuation of excessive non-sterling expenditure and we regret that this has had to be counteracted by means of import restrictions. As one who was intimately associated with this problem, I can assure you, Mr. Chairman, that we tried very hard to find alternative corrective measures which would have avoided the need for import restrictions. Our ability to remove the basic causes of disequilibrium in the Union's balance of payments by measures other than restrictions on import is, however, strictly limited.

6. The first of these causes, namely, the growing deterioration in our terms of trade, cannot be corrected on our own initiative as the matter is beyond our control both in respect of the world monetary price of gold and the overseas inflation of commodity prices. A decision with regard to the world price of gold obviously does not rest with South Africa and all I need add at this stage is that the Union Government has satisfied itself that the Government of the United States of America and the Executive Directors and Staff of the International Monetary Fund are fully conversant with the peculiar difficulties experienced by the Union as a result of the considerable decline in the exchange value of gold.

7. The second cause, namely, the abnormal demand in South Africa for imported goods, may become less important as a disturbing factor in the course of time since there is already increasing evidence of excessive anticipatory purchases by Union

importers and of overstocking in many lines of consumers' goods. On the other hand, our essential import requirements of plant and machinery, equipment and materials for mining and industrial purposes are likely to be maintained at a high level for some considerable time to come and it would, therefore, have been unwise to rely too much on a contradiction of consumers' demand as a moderating factor in our present very heavy import programme. We are, therefore, faced with the need of taking additional measures in the national economic interest with a view to ensuring the continuous supply of the producers' goods required directly or indirectly by all the producing and developing gold mines, as well as all essential and desirable industries and services.

8. The third disturbing factor in the Union's balance of payments, namely, the excessive influx of unconvertible "flight" capital from the sterling area, has admittedly ceased to be a cause of disequilibrium, but it has unfortunately left in its wake a good deal of the inflation previously brought about by it. Whilst some of this inflationary pressure has probably been directly associated with the rapid extension of industrial production, a substantial part thereof has undoubtedly gone into the buying and holding of imported commodities and the extension of credit to the general public. In order to counteract the inflationary disturbances of these factors, the South African commercial banks have been requested, as a matter of positive public policy, to contract credit facilities for non-productive purposes generally and also to restrict advances in the case of the less essential and over-developed industries, with due regard to the obvious need for exercising discretion and avoiding unnecessary disturbances."

9. I should, in conclusion, like to refer briefly to what appears to be an incorrect impression on the part of certain non-sterling countries of South Africa's position as a member of the sterling group. I am referring particularly to certain countries in Western Europe with which the United Kingdom has concluded agreements regulating trade and financial payments between them individually and the sterling area as a whole. Some of these countries, which are also contracting parties to the General Agreement, have represented to the Union Government that since, in terms of their existing financial agreements with the United Kingdom, all financial transactions between members of the sterling area and themselves have to be settled in sterling, the Union could not argue that settlement of any unfavourable balances with them would cost us gold and that, in consequence, they were entitled to be treated on the same basis as sterling countries for the purposes of the Union's exchange restrictions.

10. I should explain, however, that South Africa's position is entirely different from that of the other sterling area countries since we are committed under the Union-United Kingdom Gold Loan Agreement to reimburse the United Kingdom in gold for any net payments made by the Bank of England on our behalf to countries outside the sterling area. South Africa is not member of the sterling-area dollar pool.

11. From the Union's point of view, therefore, any net payment made on its behalf by the United Kingdom to countries outside the sterling area represents a loss of gold, irrespective of whether such payment is effected in sterling or other currencies and we have, therefore, not been able to meet the requests for exceptional treatment preferred by certain non-sterling countries.

12. Finally, Mr. Chairman, I would assure you and the Representatives of the Contracting Parties that the Union Government is anxious that the restrictions it has imposed shall not disturb the normal channels of trade any more than is absolutely necessary to remove the present disequilibrium in the Union's balance of payments. The Union Government is also prepared to consult with any Government which feels that its interests are materially affected and to give due consideration to any proposals which might be submitted as a basis for mitigating the effects of our restrictions on the trade of individual countries, provided such proposals do not detract from the early achievement of the objectives underlying these restrictions.

13. The restrictions applied by the Union of South Africa from time to time will be dictated by the circumstances.

