

GENERAL AGREEMENT ON
TARIFFS AND TRADE

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CONTRACTING PARTIES
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WORKING PARTY D ON QUANTITATIVE RESTRICTIONS

Provisions of the General Agreement relating to the
use of Quantitative Export Restrictions

It may be useful to members of the Working Party to have set out in one document the provisions of the Agreement which (as agreed at the first meeting of the Working Party on 3rd March) relate to the use of quantitative restrictions on exports.

1. General Elimination of Quantitative Export Restrictions

Article XI, para. 1:

"No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, . . . export licences or other measures, shall be instituted or maintained by any contracting party . . . on the exportation or sale for export of any product destined for the territory of any other contracting party".

2. Circumstances in which Quantitative Export Restrictions may be used

Article XI, para. 2:

"The provisions of paragraph 1 of this Article shall not extend to the following:

"(a) export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;

"(b) . . . export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade; . . . "

Article XI, para 3:

"Throughout Articles XI . . . XIII and XIV the term . . . 'export restrictions' includes restrictions made effective through state-trading operations."

Article XIV, para. 2:

"Whether or not its transitional period arrangements have terminated pursuant to paragraph (1) (f), a contracting party which is applying import restrictions under Article XII may, with the consent of the CONTRACTING PARTIES, temporarily deviate from the provisions of Article XIII in respect of a small part of its external trade where the benefits to the contracting party or contracting parties concerned substantially outweigh any injury which may result to the trade of other contracting parties."

Article XIV, para. 4:

"A contracting party applying import restrictions under Article XII shall not be precluded by Articles XI to XV, inclusive, of this Agreement from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article XIII."

Article XIV, para. 5:

"A contracting party shall not be precluded by Articles XI to XV, inclusive, of this Agreement from applying quantitative restrictions

"(a) having equivalent effect to exchange restrictions authorized under Section 3(b) of article VII of the Articles of Agreement of the International Monetary Fund; or

"(b) under the preferential arrangements provided for in Annex A of this agreement, pending the outcome of the negotiations referred to therein."

Article XV, para. 9:

"Nothing in this Agreement shall preclude:

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"(b) the use by a contracting party of restrictions or controls on exports, the sole effect of which, additional to the effects permitted under Articles XI, XII, XIII and XIV, is to make effective exchange controls or exchange restrictions (used in accordance with the Articles of Agreement of the International Monetary Fund or with that contracting party's special exchange agreement with the CONTRACTING PARTIES)."

Article XX:

"Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- "I.-(a) necessary to protect public morals;
- "(b) necessary to protect human, animal or plant life or health;
- "(c) relating to the importation or exportation of gold or silver;
- "(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;
- "(e) relating to the products of prison labour;
- "(f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- "(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- "(h) undertaken in pursuance of obligations under inter-governmental commodity agreements, conforming to the principles approved by the Economic and Social Council of the United Nations in its Resolution of March 28, 1947, establishing an Interim Co-ordinating Committee for International Commodity Arrangements; or
- "(i) involving restrictions on exports of domestic materials necessary to assure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; Provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this agreement relating to non-discrimination;
- "II. (a) essential to the acquisition or distribution of products in general or local short supply; Provided that any such measures shall be consistent with any multilateral arrangements directed to an equitable international distribution of such products or, in the absence of such arrangements, with the principle that all contracting parties are entitled to an equitable share of the international supply of such products;
- "(b) essential to the control of prices by a contracting party undergoing shortages subsequent to the war; or
- "(c) essential to the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any contracting party or of industries developed in the territory of any contracting party owing to the exigencies of the war which it would be uneconomic to maintain in normal conditions; Provided that such measures shall not be instituted by any contracting party except after consultation with other interested contracting parties with a view to appropriate international action.

"Measures instituted or maintained under Part II of this Article which are inconsistent with the other provisions of this Agreement shall be removed as soon as the conditions giving rise to them have ceased, and in any event not later than January 1, 1951; Provided that this period may, with the concurrence of the CONTRACTING PARTIES, be extended in respect of the application of any particular measure to any particular product by any particular contracting party for such further periods as the CONTRACTING PARTIES may specify."

3. Rules for the Non-discriminatory Administration of Quantitative Export Restrictions

Article XIII, para. 1:

"No prohibition or restrictions shall be applied by any contracting party . . . on the exportation of any product destined for the territory of any other contracting party, unless . . . the exportation of the like product to all other countries is similarly prohibited or restricted."

Article XIII, paragraphs 2 to 4:

(Note: According to paragraph 5 the principles of Article XIII shall extend, insofar as applicable, to export restrictions as well as to import restrictions. Paragraphs 2 to 4 are written with reference to import restrictions only, but for the assistance of the Working Party they may be recast as set out below with reference to export restrictions)

"2. In applying export restrictions to any product, contracting parties shall aim at a distribution of trade in such product approaching as closely as possible the shares which the various contracting parties might be expected to obtain in the absence of such restrictions, and to this end shall observe the following provisions:

"(a) wherever practicable, quotas representing the total amount of permitted exports (whether allocated among purchasing countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3(b) of this Article;

"(b) in cases in which quotas are not practicable, the restrictions may be applied by means of export licences or permits without a quota;

"(c) contracting parties shall not, except for purposes of operating quotas allocated in accordance with sub-paragraph (d) of this paragraph, require that export licences or permits be utilised for the exportation of the product concerned to a particular country or source;

"(d) in cases in which a quota is allocated among purchasing countries, the contracting party applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other contracting parties having a substantial interest in purchasing the product concerned. In cases in which this method is not reasonably practicable, the contracting party concerned

shall allot to contracting parties having a substantial interest in purchasing the product shares based upon the proportions, purchased by such contracting parties during a previous representative period, of the total quantity or value of exports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed which would prevent any contracting party from utilising fully the share of any such total quantity or value which has been allotted to it, subject to exportation being made within any prescribed period to which the quota may relate."

"3.- (a) In cases in which export licences are issued in connection with export restrictions, the contracting party applying the restrictions shall provide, upon the request of any contracting party having an interest in the trade in the product concerned, all relevant information concerning the administration of the restrictions, the export licences granted over a recent period and the distribution of such licences among purchasing countries; Provided that there shall be no obligation to supply information as to the names of exporting or purchasing enterprises.

"(b) In the case of export restrictions involving the fixing of quotas, the contracting party applying the restrictions shall give public notice of the total quantity or value of the product or products which will be permitted to be exported during a specified future period and of any change in such quantity or value.

"(c) In the case of quotas allocated among purchasing countries, the contracting party applying the restrictions shall promptly inform all other contracting parties having an interest in purchasing the product concerned of the shares in the quotas currently allocated, by quantity or value, to the various purchasing countries and shall give public notice thereof.

"4. With regard to restrictions applied in accordance with paragraph 2(d) of this Article , the selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the contracting party applying the restriction; Provided that such contracting party shall upon the request of any other contracting party having a substantial interest in purchasing that product or upon the request of the CONTRACTING PARTIES, consult promptly with the other contracting party or the CONTRACTING PARTIES regarding the need for an adjustment of the proportion determined or of the base period selected, or for the re-appraisal of the special factors involved, or for the elimination of conditions, formalities or any other provisions established unilaterally relating to the allocation of an adequate quota or its unrestricted utilisation."