

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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FINAL REPORT OF THE WORKING PARTY ON BALANCE-OF-PAYMENTS RESTRICTIONS

I. ARRANGEMENTS AND PROCEDURES FOR CONSULTATIONS ON BALANCE-OF-PAYMENTS RESTRICTIONS

1. Article XII:4(b) and Article XVIII:12(b) require that contracting parties applying import restrictions for balance-of-payments reasons enter into periodic consultations with the CONTRACTING PARTIES one or two years after a general review of restrictions, according to whether the country operates under Article XII or under Article XVIII. The review of restrictions was initiated at the beginning of 1958 and, consequently, the series of consultations with countries acting under Article XII should begin early in 1959 and those with countries acting under Article XVIII, early in 1960.

2. In accordance with its terms of reference the Working Party has considered the arrangements and procedures to be adopted for the carrying out of these consultations, in the light of the experience gained in the course of the consultations held in 1957 and the recommendations submitted by the Executive Secretary in W.13/14.

Contents of the Consultations

3. The Working Party notes that consultations held under Articles XII:4 and XVIII:12, are to cover the nature of the balance-of-payments difficulties of the contracting party applying the restrictions, alternative corrective measures which may be available and the possible effect of the restrictions on the economies of other contracting parties. In the past, consultations on import restrictions have always provided an opportunity for the free exchange of views which usually contributed to a better understanding of the problems facing the consulting countries, of the various kinds of measures taken by contracting parties to deal with their problems, and of the possibilities of further progress in the direction of freer, multilateral trade. It is noted that the Committee on Balance-of-Payments Restrictions (the establishment of which is recommended below) will need to take account of the new provisions of Article XII:4(c) and Article XVIII:12(c) in carrying out the consultations. The Working Party suggests that these new consultations on import restrictions should continue to be so conducted as to give an opportunity for a free and full exchange of views between delegations concerned.

4. In conducting consultations on balance-of-payments restrictions in the past, the CONTRACTING PARTIES have developed and relied upon certain "Plans" which set out the questions to be discussed.¹ In the light of past experience the Working Party has drawn up a new Plan of Discussion and recommends that it be adopted for the consultations to be held under Article XII:4(b) and Article XVIII:12(b) in future (see Annex I). Having regard to the diversity of circumstances, the Plan should not be regarded as a rigid programme but might require suitable adaptation in each case. Further, the special problems of each consulting country relating to its balance of payments should perforce be given careful consideration; the Committee conducting the consultations should take into account all factors, both internal and external, which affect the balance-of-payments position of the consulting country.

Documentation for the Consultations

5. Past experience has shown that advance preparation is of great value both in expediting the consultations and in making them more meaningful and fruitful. The basic documents prepared by the secretariat for the 1957 consultations were found to be very useful and the Working Party recommends that this practice be continued. On the basis of available information, including data obtained from the contracting parties concerned and from other sources, the secretariat should compile a basic document for each consultation. (In the case of countries which consulted in 1957, this will mean the keeping up to date and revision of the basic documents prepared in that year.) As the financial aspects of the restrictions will be fully dealt with in the background papers supplied by the International Monetary Fund, the secretariat paper should concentrate on the trade aspects of the restrictions, giving as far as possible a precise and comprehensive description of the restrictive systems, their administration, and the effects of the restrictions. A chronological account should also be given of the more important changes made in the controls and restrictions in the preceding year or since the preceding consultation. In preparing these papers the secretariat, as in the past, should consult as fully as possible with the contracting parties concerned, and full opportunity should be given to the latter to examine the contents of the papers. The consulting government may wish to supply a statement on its current policy in the use of import restrictions, to be attached to the basic document.

6. Such papers should in general be circulated a month before the relevant consultations are to be held. In order that this may be achieved, the co-operation of the contracting parties concerned will be essential. The contracting parties applying import controls and restrictions should keep

¹ See BISD, Fourth Supplement, pages 44-46, and Fifth Supplement, pages 55-56.

the secretariat regularly informed of any changes in their control systems, and transmit to it all relevant documentation (such as new laws and decrees, regulations, programmes, policy statements, public notices and licensing instructions, etc.) which would enable the secretariat to prepare the basic documents for the consultations. The Working Party recommends that the Executive Secretary be instructed to make practical arrangements with each contracting party applying restrictions with a view to facilitating the transmission of such information; the Working Party considers that it may be useful for each contracting party applying restrictions to designate an official for the purpose of keeping contact with the secretariat.

7. It was noted that, through consultations on balance-of-payments import restrictions, the CONTRACTING PARTIES are furnished with much valuable information on the economic position and policies of countries maintaining such restrictions. It was noted, too, that much valuable information of this character relating to a number of other countries is also made available to the CONTRACTING PARTIES in other ways. It was observed that each contracting party might consider whether it could usefully furnish to the CONTRACTING PARTIES as a matter of general interest additional information on its economic position and policies as it pertains to international trade relations. Such information could be presented, for example, at the time of ministerial discussions or at the time when important changes may occur.

Time Schedule for the Consultations

8. The Working Party noted the recommendation of the Chairman of the CONTRACTING PARTIES that it be placed on record that twelve of the contracting parties applying balance-of-payments import restrictions at present fulfil the requirements of Article XVIII:4 and that their restrictions be considered as being applied under Article XVIII:B rather than Article XII (W.13/20/Add.1); consequently, the other fourteen contracting parties applying restrictions are considered as acting under Article XII, and are therefore required to consult under Article XII:4(b) in 1959. Two other contracting parties (as well as four among the fourteen), on account of their resort to certain provisions of Article XIV, are required to consult annually under Article XIV:1(g) and, for the purpose of programming, it will be convenient to take all these into account. The countries which are required to consult in 1959 are the following:

Under Article XII:4(b)

Austria
Denmark
Finland
France
Italy
Japan
Netherlands
Norway
Sweden
South Africa

Under Articles XII:4(b) and XIV:1(g)

Australia
New Zealand
United Kingdom
Rhodesia and Nyasaland

Under Article XIV:1(g)

Ghana
Malaya

9. The Working Party understands that the CONTRACTING PARTIES have planned to hold two regular sessions in 1959 and considers that there will be advantage in holding the consultations at the same time as these sessions. Some members felt that it should be feasible to complete the consultations in two groups during these sessions; this would make it easier for their governments to provide adequate representation. The Working Party considers, however, that it would be difficult to complete such a large number of consultations in two short periods and that three groups will be necessary. With these considerations in mind and having consulted the representatives of the International Monetary Fund about the Fund's prospective consultation schedule and taking account of other relevant information, the Working Party has drawn up a tentative time-table for the consultations in 1959, as set out in Annex II, and recommends that the Executive Secretary be authorized to determine the precise date for each consultation after consultation with the contracting parties concerned, the International Monetary Fund and the Chairman of the Committee conducting the consultations. The Executive Secretary may change a consultation from one part to another, but due regard should be had to the desirability of avoiding the concentration of consultations in any one part of the schedule.

10. The Working Party considers that as far as practicable the first and third groups of meetings of the Committee should be held at the same time as the sessions of the CONTRACTING PARTIES, although it is aware that for reasons of secretariat staffing and conference arrangements it might be unavoidable for the third group of meetings to be held, at least in part, before or after the autumn session of the CONTRACTING PARTIES. Should there be need for another subsidiary body of the CONTRACTING PARTIES, e.g. the Intersessional Committee, to meet at about the middle of the year, it should be so arranged that its meetings are held as closely as possible, and preferably simultaneously, with those of the Committee conducting the consultations.

Committee on Balance-of-Payments Restrictions

11. The Working Party considers that as on the previous occasions the consultations should be entrusted to a Committee comprising governmental representatives. The composition of the Committee should reflect as far as possible the characteristics of the contracting parties generally in terms of their geographical location, external financial position and stage of economic development, and its size should be suited to the nature of its work. The Working Party recommends that the CONTRACTING PARTIES appoint a Committee on Balance-of-Payments Restrictions to conduct consultations in 1959¹, whose membership may be as follows:

| | | |
|-----------|--------------------------------|----------------|
| Australia | Denmark | India |
| Belgium | Dominican Republic | Japan |
| Brazil | France | Norway |
| Canada | Federal Republic of Germany | United Kingdom |
| | | United States |

Chairman: To be appointed by the Chairman of the CONTRACTING PARTIES

¹ The Committee will conduct the consultations under Article XII:4(b) and Article XIV:(g) and such other consultations as may be initiated during the year under Article XII:4(a) or Article XVIII:12(a) (see paragraph 20 below).

In the light of experience the Working Party strongly recommends that members of the Committee designate as their representatives persons of adequate qualifications and acquaintance with the problems to be dealt with by the Committee and that efforts should be made to ensure continuity in the representation on the Committee.

12. In accordance with the rules of procedure of the CONTRACTING PARTIES any contracting parties which are not members of the Consultations Committee, but which are interested in one or more of the consultations, will be entitled to be represented and participate fully in the discussions.

13. The Working Party has considered ways in which the work of the Committee conducting the consultations may be facilitated. In view of the large number of consultations to be held, it feels that it may be difficult for each member of the Committee to familiarize himself intimately with the problems of all the consulting countries. On the other hand, it is essential that the proceedings should be such as to facilitate the broadest possible interest and participation in the discussions. To this end, it is proposed that the Chairman of the Committee should designate among its membership several sub-groups for the purpose of examining the documentation and deciding on the questions and issues that appear to be most useful to discuss in each consultation, bearing in mind the interests of the contracting parties in general.

14. Each sub-group will consist of perhaps four members and will be engaged in the preparation for the consultation with one or more countries, in the manner described in the preceding paragraph. The preliminary process will occupy a short period, and the consultations would begin with the whole Committee as and when one or more of the sub-groups completed their work. Although the consultations would naturally focus largely on the questions formulated by the sub-groups, other members of the Committee would, of course, as in the past, be free to put questions or raise issues.

15. Although the sub-groups could be designated at the beginning of each meeting of the Committee, there would be an advantage in designating them, as far as possible in advance of the time of consultations. This would enable more thorough study of particular country situations by their members.

16. A representative was doubtful of the value of this arrangement of appointing sub-groups which, in his view, might lengthen the proceedings and create duplication of work. The Working Party was, however, in favour of its adoption on an experimental basis for the 1959 consultations. It may be modified or discontinued in the light of experience and according to circumstances.

Consultations with the IMF

17. In accordance with paragraph 2 of Article XV, the CONTRACTING PARTIES should invite the International Monetary Fund to consult with them in connexion with these consultations. The Executive Secretary should therefore be authorized to extend the necessary invitations to the Fund. Documents supplied by the Fund as a part of the consultations should be circulated to the contracting parties as early as possible before the opening of each consultation. The Fund would be invited to be represented at meetings of the Consultations Committee.

Reports on the Consultations

18. At the conclusion of each consultation, the Committee should draw up a report on the discussion. Such reports should provide a succinct record and summing up of the important points discussed. It is not considered useful to have a detailed rendering of the individual interventions; the aim should be to produce a set of documents which reflect the important problems and the collective views of the CONTRACTING PARTIES rather than a record of individual speeches or statements on points of detail. The reports should be circulated to the contracting parties as and when they are completed by the Committee, and should be submitted to the CONTRACTING PARTIES for approval at the last plenary session to be held in 1958.

19. In addition to the reports on individual consultations the Committee should decide in the light of its proceedings whether there is need to submit a final report to the CONTRACTING PARTIES to present comments or observations of a general nature.

II. OTHER CONSULTATIONS OR ACTION

20. The Working Party has taken note of the recommendations made by the Working Party on Organization regarding the powers of the Intersessional Committee. It agrees that all consultations and other matters arising under Articles XII - IV and XVIII:B could be entrusted to the Committee set up to conduct the 1959 consultations. The Working Party suggests that paragraph 8 of the current Intersessional Procedures (BISD, Fifth Supplement, page 18) should be modified to read as follows:

"8. When a matter arises under Articles XII - XV or XVIII:B, the Committee on Balance-of-Payments Restrictions, subject to rules established by the CONTRACTING PARTIES, initiates and engages in consultations, or otherwise deals with the matter, under those Articles. It reports or makes appropriate recommendations to the CONTRACTING PARTIES."

This paragraph, together with paragraphs 9 and 10, should of course be transferred from Section I, which relates to the Intersessional Committee, to an appropriate place in the Intersessional Procedures.

III. REVIEW OF IMPORT RESTRICTIONS UNDER
ARTICLES XII:4(b) AND XVIII:12(b)

21. The Working Party was asked to carry out the review of import restrictions provided for in paragraph 4(b) of Article XII and paragraph 12(b) of Article XVIII. As instructed by the CONTRACTING PARTIES the secretariat prepared a preliminary draft report to embody the result of the review, which was circulated to the members of the Working Party and other contracting parties on 11 November 1958. Taking account of the purpose of the review, the secretariat draft covered not only the present situation in the use of import restrictions but also changes in the world balance-of-payments situation and the use of restrictions through the past six or seven years. In view of the comprehensive coverage and the short time available the Working Party has found it difficult to examine the text in a thorough manner. It considers that more time should be allowed for contracting parties to reflect further on the matter and to examine the draft closely. The Working Party has therefore arranged for the secretariat draft to be formally circulated to all contracting parties (W.13/53), and suggests that contracting parties should be requested to send any comments or suggestions to the secretariat as early as possible and not later than 15 January 1959. On the basis of the comments and suggestions received the secretariat should prepare a revised text for circulation in February. The revised text should be examined by the Committee on Balance-of-Payments Restrictions at its first session in 1959 and the agreed text can then be submitted for approval by the CONTRACTING PARTIES.

Points for Decision:

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| Paragraph | 4 |
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ANNEX I

PLAN OF DISCUSSION FOR CONSULTATIONS
UNDER ARTICLES XII:4(b) AND XVIII:12(b)

For each consultation held under the provisions mentioned above the Committee conducting the consultation should, on the basis of the written submissions and documentation available, successively discuss the four main subjects listed below. In the discussions the Committee may find it convenient to take into account the topics listed under each of these main subjects. It is not suggested that each of these topics will be appropriate for all consultations nor that the Committee should not take up any other questions which may be considered relevant to the applicable provisions of Article XII and Article XVIII.

I. Balance-of-Payments Position and Prospects

Balance-of-payments situation and level of monetary reserves.

Balance-of-payments prospects and expected movement in reserves.

Special considerations affecting the availability of or the need for monetary reserves.

Factors, either external or internal, affecting the various elements of the balance of payments, such as exports and imports.

Effects of the restrictions on the balance of payments and expected duration of the restrictions.

Prospects of relaxation or elimination and likely effect of such action on the balance of payments.

II. Alternative Measures to Restore Equilibrium

Internal monetary and fiscal situation and other relevant matters which may affect the balance of payments.

Internal action to preserve or restore equilibrium including long-term measures such as those designed to raise productivity and export capacity or to reduce structural disequilibrium or rigidities.

Other measures which may help to restore the country's balance of payments.

III. System and Methods of the Restrictions

Legal and administrative basis of the restrictions.

Methods used in restricting imports, including the categories of goods and proportion of imports covered by each method.

Treatment of imports from different countries or currency areas.

The use of State trading or governmental monopoly in imports and the restrictive operation, if any, of such régimes.

IV. Effects of the Restrictions

Protective effects of the restrictions on domestic production.
Difficulties or hardship that may be expected upon relaxation or elimination of the restrictions.

Steps taken to reduce incidental protective effects of the restrictions.

Steps taken to minimize the difficulties of transition to the stage where balance-of-payments restrictions may be eliminated.

Steps taken in the light of Article XII:3(e) and the proviso to Article XVIII:10.

ANNEX II

Tentative Time-Table for Articles XII:4(b) and XIV:1(g)
Consultations in 1959

MARCH or APRIL

France
Netherlands
New Zealand**
United Kingdom**
South Africa

JUNE

Austria
Denmark
Finland
Ghana*
Malaya*

OCTOBER

Australia**
Italy
Japan
Norway
Rhodesia and Nyasaland**
Sweden

* Consultations under Article XIV:1(g) only.

** Consultations under both Article XII:4(b) and Article XIV:1(g).

All others are consultations under Article XII:4(b) only.