

RESTRICTED

GENERAL AGREEMENT ON TARIFFS AND TRADE

L/1716
29 January 1962
Limited Distribution

COUNCIL

22 February-2 March 1962

INTERIM REPORT OF THE PANEL OF EXPERTS ON NOTIFICATIONS OF RESIDUAL RESTRICTIONS¹

1. The Panel was appointed by the CONTRACTING PARTIES at their nineteenth session and was given the following terms of reference:

- (i) To examine the adequacy of the notifications of residual restrictions which have been received from contracting parties, and to clarify any points arising from the notifications with the contracting parties concerned.
- (ii) To report thereon to the Council at its meeting in February or May 1962.

2. The Panel noted that when the notifications were discussed at the nineteenth session, the view had been expressed that those contracting parties which had not responded to the request for notification of residual restrictions as set out in paragraph 1 of document L/1563 should again be urged to do so as soon as possible. As a result, certain additional information had been made available by contracting parties since that session. When it met on 22 January the Panel had before it lists of residual restrictions submitted by some eleven contracting parties. About twenty contracting parties had stated that they applied no residual restrictions which required notification under the agreed procedures. Only a few contracting parties had still not responded to the request for information on their residual restrictions. The material available to the Panel is listed in Annex II to this report.

3. By its terms of reference the Panel was required not only to examine the adequacy of the notifications already received but also to clarify any points arising from them with the governments concerned. The Panel considered that, while no doubt some of this clarification work could be done in the course of its

¹ Since its appointment there has been a change in the composition of the Panel. The actual membership of the Panel, together with a list of governments and organizations represented by observers, is given in Annex I to this report.

present meetings, at which a number of contracting parties were represented by the experts they supplied or by observers, the major part of the work would have to be done through correspondence with governments. The Panel would, therefore, be unable to complete its work at the present meetings but would have to convene again when replies to its enquiries were available.

4. Accordingly the Panel agreed that:

- (a) the secretariat should be asked, on the basis of this report, to communicate with the governments concerned with a view to obtaining the supplementary information or clarification required, by the end of March;
- (b) the additional information thus obtained should be circulated to members of the Panel and to all contracting parties; and
- (c) the Panel would meet again early in May to examine this information and to draw up a report for consideration by the Council at its meeting which opens on 21 May.

5. The points noted by the Panel and on which the secretariat should be asked to communicate with contracting parties are the following:

- (a) Form of notification: In certain cases a contracting party had supplied the CONTRACTING PARTIES with a liberalization list or lists showing the products which had been freed from import restrictions, but no list showing the products remaining under restriction. The Panel considered that the procedures adopted by the CONTRACTING PARTIES for dealing with residual restrictions (see BISD, 9th supplement page 19) presupposed the availability of a list of restrictions without which those procedures could not effectively be operated. The Panel, therefore, urged that the governments concerned make every effort to compile a list showing the restrictions at present in force in accordance with those procedures. Such a list should include relevant information as noted in the following paragraphs. The Panel wished to point out that there was no reason why governments must await the final stages of their liberalization before undertaking the preparation of such a list of restrictions. It was not intended that lists of residual restrictions for the present purposes should contain only those restrictions the removal of which was unforeseeable. In fact, the procedures precisely envisaged liberalization as a continuing, normal feature after a residual list had been submitted to the CONTRACTING PARTIES. Nor should governments be inhibited from drawing up a list of residual restrictions by uncertainties as to whether any particular restrictions might or might not in fact be justifiable under the General Agreement. Such lists are intended merely to serve as a reference, subject to clarification or modification in any subsequent consultations; no commitment or final judgment was involved.

- (b) Definition of products: The lists submitted by some contracting parties described the products subject to restrictions only in the most general terms. The Panel considered that it would be useful if more precise definitions of the products could be given, preferably in terms of the customs tariff nomenclature, or as they were actually used for import control purposes.
- (c) Types of restrictions: Some of the lists available contained an enumeration of products without indicating the types of restriction to which they were subject. The Panel considered that information should be included on whether the restrictions in question involved the use of quotas, discretionary or administrative licensing, prohibition, or any other devices. Where practicable some information should be given of the method or principles by which the sizes of the quotas were determined. It should also be noted that under the General Agreement "import restrictions" comprise restrictions made effective through State-trading operations (see BISD, Vol.III, page 69).
- (d) Area of application: Some notifications failed to show the countries or groups of countries to which the restrictions were applied. Where such information was lacking the contracting party concerned should be requested to give the necessary information and, where necessary, give a clearer definition of any areas referred to in a notification.
- (e) Duration of the restrictions: The Panel recalled that contracting parties had been requested to indicate in their notifications the intended duration of each restriction and noted that such information had been supplied only in a limited number of cases. The Panel was aware that it might not always be possible or easy for a government to state definitely when their restrictions would be removed, but it considered that it would be useful for the purposes of the residual restriction procedures if some indication could be given of such likelihood. The Panel, therefore, suggested that, insofar as possible, contracting parties should endeavour to give an indication of the date by which, in their present judgment or according to their present estimate, the restrictions were likely to be removed, or of their intention regarding the dismantling of such restrictions.

(f) Most of the notifications received contain no list of restrictions of the kind described in paragraph (a)(ii) of the request, that is, restrictions which, in the judgment of the notifying government, are permitted by virtue of the terms on which it is provisionally applying the General Agreement (see L/1563, page 1). The secretariat should call attention to this request, and contracting parties should be urged to supply such a list or to indicate that no such restrictions were in force.

6. Apart from these questions of a general nature, the Panel also noted the information brought to its attention concerning possible omissions in the lists supplied by certain contracting parties. On the basis of this information the Panel has asked the secretariat to make enquiries with the contracting parties concerned with a view to ascertaining (a) whether any of the restrictions in question in fact existed and (b) if so, whether, in the judgment of the government concerned, the restriction was not inconsistent with the General Agreement and consequently need not be included in the notification. In the latter case it would be useful for the government concerned to indicate under which provision of the General Agreement the restriction was considered to have been covered.

7. With regard to the few cases in which no notification had been received, the Panel has requested the secretariat to renew its efforts to obtain a reply from the governments concerned. The Panel was of the view that for practical reasons no such request need be made to the acceding or associated governments (such as Argentina, Poland, Spain or Tunisia) or the "newly-independent States" at the present stage.

8. The Panel expects that immediately after the present meetings the secretariat would proceed with obtaining information from individual governments along the lines indicated above. The Panel suggested that the Council, at its meeting in February, should stress to contracting parties the desirability and importance of complying with the requests which the Panel had made to them through the secretariat, so that the fullest possible information would be made available to the Panel to enable it to proceed with its examination of the overall and individual adequacy of the notifications.

9. The Panel wished to call attention to the interim nature of the present report and the preliminary nature of the work it had so far accomplished. There were a number of problems relevant to the task entrusted to the Panel which had been pointed out but which were not fully discussed. The Panel thought that these problems could be considered at a later stage when more complete material was available on the residual restrictions. By the same token, members of the Panel would be entirely free to revert to any of the notifications already considered or to bring up questions and matters which they had not raised.

ANNEX I

MEMBERSHIP OF PANEL

Chairman: Mr. M.G. Mathur (India)

Mr. C. Conron (Australia)
Mr. R. Dixon (United States)
Mr. T. Gabrielsson (Sweden)
Miss M.J. Lackey (United Kingdom)
Mr. I. Martin-Witkowski (France)
Mr. H. Miyazaki (Japan)
Mr. G.G. Onyia (Nigeria)
Mr. P. Padilha Vidal (Brazil)

Governments and Organizations Represented by
Observers at the January 1962 Meetings

Austria
Belgium
Canada
Czechoslovakia
Switzerland
EEC Commission
OECD

ANNEX IIMATERIAL AVAILABLE TO THE PANELNote by the Secretariat(A) Lists of residual restrictions received from contracting parties

<u>Contracting Party</u>	<u>List of Restrictions Notified</u>	<u>Notes</u>
Australia	L/1563 (Section 1) L/1563/Add.6	Request (a)(ii) covered.
Austria		Various "liberalization lists" have been submitted (a list of products liberalized on 1 January 1962 will be circulated to the contracting parties shortly). A negative list is not yet available.
Canada	L/1563 (2)	Request (a)(ii) covered.
France	L/1563/Add.1 L/1417 & Add.1,2	The list in L/1417 and Add.1 and 2 applies to imports from OEEC countries, the United States and Canada. Imports from most other GATT countries are covered by a different liberalization list (L/1563/Add.1, Annex, para.5, and L/1445).
Ghana	L/1563 (3)	Press reports indicate that Ghana introduced new import restrictions in December 1961. The list in L/1563 was submitted earlier in 1961.
Italy	L/1563 (4) L/1563/Add.2 & 5	This list applies to imports from two groups of countries (List A and List B countries). A separate list (List C) is in force for a third group of contracting parties.
Netherlands	L/1563 (5)	
Norway	L/1691	This "liberalization programme", submitted since the nineteenth session, shows all products at present remaining under restriction with the exception of certain agricultural products controlled by the Ministry of Agriculture.
Portugal	L/1563/Add.4	
Rhodesia & Nyasaland	L/1563 (6)	

<u>Contracting Party</u>	<u>List of Restrictions Notified</u>	<u>Notes</u>
Sweden	L/1563 (7)	Request (a)(ii) covered.
United Kingdom	L/1563 (8)	This is a list of restrictions on imports from "countries to which the United Kingdom programme of relaxation of import restrictions normally applies". Request (a)(ii) covered.
United States	L/1563 (9)	Request (a)(ii) covered.

(B) Contracting parties which have notified no residual restrictions

Applying restrictions under a decision of the CONTRACTING PARTIES Federal Republic of Germany

Belgium
Luxemburg

Not covered by
balance-of-
payments pro-
visions or by a
waiver decision

Czechoslovakia Nigeria
Malaya Peru
Nicaragua

Cuba
Dominican Republic
Haiti
Sierra Leone
Tanganyika

(C) Notifications received from acceding and associated governments, etc.

Cambodia: supplied information on a number of restrictions applied for reasons which are being clarified with the Cambodian Government

Yugoslavia: stated that there are no restrictions to notify under these procedures

Switzerland: stated that no restrictions are applied which are not covered by paragraph 1(b) of the Declaration on Swiss Accession.