

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/1774

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REPORT OF THE PANEL OF EXPERTS ON NOTIFICATIONS OF RESIDUAL RESTRICTIONS

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. In January 1962, the Panel submitted an interim report (L/1716) which was considered and approved by the Council of Representatives at its meeting held from 22 to 28 February. In that report the Panel reviewed the notifications and other material available to it at that time and requested the secretariat to communicate with individual contracting parties in order to obtain certain supplementary information or clarification. It was agreed that the Panel would meet again in May to examine the replies of contracting parties and to draw up a final report.

3. When the Panel reconvened on 14 May, it was informed that in response to the requests made on its behalf a number of contracting parties had supplied lists of residual restrictions, had revised their earlier notifications, or had furnished details concerning their notifications. On the basis of this material and with the assistance of some of the representatives of the contracting parties concerned, the Panel examined the adequacy of the notifications, bearing in mind the purposes of the residual restrictions procedures and in the light of the discussions at the nineteenth session. Part I of the present report contains a general stock-taking of the notifications which have been received. Part II of the report contains notes concerning certain points raised in connexion with individual notifications or in connexion with the position of individual contracting parties.

PART I

4. The lists of residual import restrictions which have been received from contracting parties, and which formed the basis of the Panel's deliberations, are reproduced in document L/1769. These lists supersede all previous lists (such as those contained in L/1563 and Addenda, L/1691, L/1723 and L/1762); they are intended to represent the present situation and take account of all modifications, corrections and clarifications brought to the notice of the Panel.

5. The notifications and supplementary information obtained from contracting parties are recorded as they were given. The Panel did not consider it within its terms of reference to comment on the invocation of particular provisions of GATT by contracting parties to justify either individual restrictions or the whole of their system of import controls.

6. As regards the adequacy of the notifications as a whole, the Panel noted that out of the forty-one contracting parties:

- (a) fifteen contracting parties applying residual restrictions have responded to the request for information, namely:

Australia	Norway
Austria ¹	Portugal
Belgium ²	Rhodesia and Nyasaland
Canada	Sierra Leone
France ¹	Sweden
Italy	United Kingdom
Luxemburg ²	United States
Netherlands	

- (b) twenty-two contracting parties have stated that they apply no restrictions notifiable under the residual restrictions procedures, namely:

¹See paragraph 8 below.

²See the relevant notes in Part II of this report.

Brazil*	Indonesia*
Burma*	Japan*
Ceylon*	New Zealand*
Chile*	Malaya ¹
Czechoslovakia	Nicaragua
Denmark*	Nigeria
Federal Republic of Germany**	Pakistan*
Finland*	Peru
Ghana*	Turkey*
Greece*	South Africa*
India*	Uruguay*

- (c) only four contracting parties have so far not responded to the request for information on the existence of residual restrictions in their countries.

7. Among the governments which have provisionally acceded to the General Agreement, or have established special relationships with the CONTRACTING PARTIES, Israel and Yugoslavia have stated that they have no restrictions to notify under these procedures. Switzerland has stated that it applies no restrictions on imports which are not covered by paragraph 1(b) of the Declaration concerning the provisional accession of Switzerland. No notification has been received from any of the other governments in this group.

8. No negative list of residual restrictions has been received from the Government of Austria; only a liberalization list has been supplied to the CONTRACTING PARTIES. The Panel was given to understand that the matter was still being considered by the Government. In addition it should be noted that the negative list of residual restrictions submitted by France and reproduced in L/1769 covers only products subject to licensing when imported from the former OEEC countries, Canada and the United States; no such list has been supplied concerning imports from the other contracting parties. It was stated by the French representative that there were some practical difficulties in compiling such a list at present. Although these two Governments have not been able fully to comply with the request of the CONTRACTING PARTIES it was their hope that in making available complete and up-to-date liberalization lists they have gone some way in elucidating the current position.

¹ Apart from the prohibition of imports from South Africa.

* Indicates that the contracting party applies restrictions on balance-of-payments grounds under Article XII or XVIII.

**Indicates that with respect to the contracting party a Decision concerning the use of import restrictions has been taken by the CONTRACTING PARTIES pursuant of Article XXV:5.

9. It will be noted that the Panel has not sought to obtain details of restrictions in operation in the non-metropolitan territories with respect to which the GATT has been accepted, although such information was supplied voluntarily in one case. It was generally considered that it was preferable to concentrate in the first instance on the assembling of information relating to the metropolitan territories of contracting parties. In taking this view, the Panel recognized however that information on non-metropolitan territories might be required at some later stage. The Panel's enquiry suggested that collection of such information covering all such territories would take a considerable period of time and involve some contracting parties in a heavy burden of work. It suggests therefore that in any future investigations of residual restrictions, contracting parties having a substantial trade interest in the trade with a particular territory might ask the secretariat to obtain the relevant information for that territory.

PART II

10. In its interim report (L/1716) the Panel put forward certain suggestions regarding the type of information which should be included in a notification. These suggestions, as set out in paragraph 5 of that report, related to (a) the form of notification, (b) definition of products, (c) types of restrictions, (d) area of application, (e) duration of the restrictions and (f) any restrictions covered by the provisional application provision. The Panel noted that these points were taken into account by most of the contracting parties which submitted new or revised notifications. As noted in paragraph 6 of the interim report, the Panel also sought clarification from certain governments as to whether certain products not included in the notifications submitted by them should have been so included. In response to such requests, certain contracting parties revised their notifications by including the products in question, while in most cases the contracting party confirmed that in its view the product or products in question were not subject to restrictions notifiable under the residual restrictions procedures and gave the reason why it was considered so.

11. The following paragraphs set out such supplementary information supplied by contracting parties, and comments by members of the Panel on the lists of restrictions reproduced in L/1769, on the supplementary information mentioned above or on the position of contracting parties which have supplied no list of residual restrictions.

Australia

The Panel noted that in the judgment of the Australian authorities, ships are not subject to restrictions notifiable under the residual restrictions procedures, the restrictions on this item being maintained consistently under the provisions of Article XXI of GATT.

Belgium

The list of residual restrictions of Belgium, which is valid also for Luxemburg, was received by the Panel towards the end of its meetings. Consequently the Panel has not had adequate opportunity of examining it or of putting questions to the two Governments on the basis of the list.

The Panel had enquired whether motor vehicles were subject to residual restrictions in Belgium and was informed that the restriction on this item had been removed on 1 January 1962.

Canada

It may be noted that the Canadian authorities have not stated that the restrictions listed in its notification are all definitely considered inconsistent with GATT.

France

With regard to the list of products subject to licensing controls or restrictions when imported from former OEEC countries, Canada and the United States, it is noted that the French authorities are uncertain as to whether such licensing controls, insofar as they apply to agricultural imports, are, or are not inconsistent with GATT and the Protocol of Provisional Application and that consequently no answer is given as to the duration of such controls. As regards the industrial products included in the list, the French authorities consider that the licensing controls to which they are submitted are not inconsistent with GATT (except for a few items which are marked for liberalization in the near future), although they are included in the list submitted. The Panel noted the absence in the list of details on the type of restrictions used. It was also noted that no information was obtained as to under which specific provisions of GATT any restrictions which may be involved in the licensing controls affecting industrial products are considered by the French authorities to be justified.

The French authorities stated that the French "Technical Visa" regulations as well as the "Special Procedures", which were referred to in the list in L/1723, do not constitute quantitative restrictions. The new version of the negative list, as reproduced in L/1769, has been revised accordingly.

Federal Republic of Germany

The Federal Republic of Germany has stated to the Panel that it at present applies no import restrictions other than those covered by the Decision of 30 May 1959 or by Articles XI or XX of GATT.

Italy

The Panel considers that the reference to the Annecy Protocol in paragraph 4 of the notification requires clarification, especially in regard to the restrictions on imports of bananas (the secretariat should seek this clarification with a view to ensuring accuracy of the list when it is reproduced in L/1769).

It was also noted: (a) that no indication is given in the notification regarding the intended duration of the restrictions; and (b) that the list does not cover all contracting parties. If, as the Panel understands, there exist other lists affecting imports from one or more contracting parties, they should also be supplied (e.g. "List C", which applies to imports from a few contracting parties, and the special list applying to imports from Japan).

Luxemburg

In reply to questions put by the Panel, the Luxemburg Government has stated that:

- (a) Import restrictions on pure-bred swine, bovine cattle for breeding and young beef cattle are covered by the Decision of 3 December 1955. Imports of young beef cattle are restricted in the light of domestic requirements. Imports of pure-bred swine and bovine cattle for breeding are subject to the livestock breeding regulations.
- (b) Shelled eggs and egg yolks for use in foodstuffs have been liberalized and may be imported freely.

Apart from the restrictions applied on certain agricultural products under the waiver granted to Luxemburg, the import control system applied by Belgium is equally valid for Luxemburg by virtue of the provisions of the Convention of 25 July 1921 on the Belgo-Luxemburg Economic Union. See the note relating to Belgium above.

The Netherlands

The Panel has requested new information from the Netherlands authorities on certain products and concerning common quotas in Benelux; the secretariat should circulate the replies when received.

Nicaragua

The Nicaraguan authorities have stated that Nicaragua places imports under a prior deposit system, the purpose of which is to curtail the circulation of money within the country; only incidentally has the system also the effect of reducing the volume of imports. The relevant legislation establishes three categories of products according to their degree of essentiality. The provisions of the law apply to imports from all countries without discrimination. The law is of indefinite duration but revisions are made in the lists as economic conditions in the country change.

The data accompanying this statement have not been included among the notifications because there is no indication that Nicaragua considers this measure to be inconsistent with GATT.

Norway

The Norwegian authorities stated to the Panel that grains and wine are under State trading, which is operated consistently with Article XVII, and involves no quantitative restriction of imports.

The List reproduced in L/1769 is shorter than originally notified (see L/1691 and L/1563/Add.10), certain items having been liberalized in the meantime.

The Norwegian authorities stated that import restrictions in the agricultural sector are under constant study with regard to their consistency with GATT.

Peru

The Peruvian Government considers that no restrictions inconsistent with the General Agreement are in force in Peru and that in general Peru applies a policy of liberal imports, there being no system of prior licensing, quota, or prohibition, with the only exception of a small number of controls which are related to certain of the general exceptions provided for in Article XX of the General Agreement.

Portugal

In response to an enquiry by the Panel, the Portuguese authorities have included certain additional items in its list, in most cases in the light of the statement contained in paragraph 5(a) of the Panel's interim report. These are products previously discussed in Committee II and there is in the view of the Portuguese authorities still uncertainty as to the consistency of the restrictions on these products with the provisions of GATT.

Rhodesia & Nyasaland

The Panel has enquired whether restrictions are applied on any products other than those included in the previous notification, particularly on any agricultural products. It notes that no reference is made to any agricultural, or other products (e.g. jute bags other than hessian, and second-hand accounting machines), in the revised notification reproduced in L/1769.

Sweden

In response to a number of questions put by the Panel the Swedish authorities have replied that:

- (a) Restrictions existing in the agricultural field, as mentioned in the notification, are covered by the provisional application provision concerning existing legislation. Details concerning the Swedish agricultural policy have been given to Committee II (see L/1171, paragraphs 32-33. COM.II/2(c), section B and Add.1 and COM.II/56).
- (b) The Swedish provisions of "emergency restrictions" and "minimum price scheme" have been reported to Committee II (cf. the documents mentioned above).

- (c) As to restrictions on products other than agricultural products, Sweden applies State trading in raw tobacco and products for the fabrication of tobacco products (cigarette paper, tobacco machines, etc.) and in wine, spirits and beer with an alcohol degree of more than 2.8 per cent by weight. The State monopoly pursues a policy of strict non-discrimination in its purchases of all these products from abroad.
- (d) Imports of motor vehicles (87.02, 87.03, 87.04, 87.05) are subject to licence for statistical purposes; licences are issued automatically.
- (e) There are no quantitative restrictions on apples or pears.
- (f) There is no State trading in cereals (cf. COM.II/56, page 13) nor, under normal circumstances, in sugar (cf. COM.II/56, page 18). By reason of particular circumstances a special system for sugar, notified in L/1457, has temporarily been introduced.

United States

In response to questions the United States Government has stated that:

- (a) The United States considers that the present overall restrictions on wheat under Section 22 of the Agricultural Adjustment Act and on sugar are consistent with Article XI:2(c) of the General Agreement, but since separate quotas are in effect for raw and refined sugar and for wheat and wheat flour, and since contracting parties may question the consistency of these quotas with GATT, the United States notified these restrictions in the manner expressed in L/1769.
- (b) As regards the relationship between the restrictions notified on wheat and cotton and the United States Waiver, the United States position is that the present restrictions on wheat and wheat flour are covered (as noted above) and that the present restrictions on cotton and cotton products are similarly covered. The United States annual reports to the CONTRACTING PARTIES under the United States Waiver contain information on these restrictions simply because, in conformity with paragraph 6 of the conditions and procedures of the Waiver, all Section 22 restrictions are notified regardless of the applicability of the Waiver.
- (c) United States oil import restrictions are considered consistent with the provisions of Article XXI. Existing mandatory restrictions on imports of crude oil, unfinished oils, and finished products were adopted by the Presidential Proclamation of 10 March 1959, pursuant to Section 8 of the Trade Agreements Extension Act, 1958. This action was taken only after thorough investigation by the Director of the Office of Civil and Defense

Mobilization on the effect of oil imports upon national security, as required by Section 8. The Director of this Agency found "that crude oil and the principal crude oil derivatives and products are being imported in such quantities and under such circumstances as to threaten to impair the national security".

- (d) Import restrictions on lead and zinc are maintained under Article XIX of GATT (cf. L/859).

Note: Document L/1769, which contains the consolidated lists of residual restrictions and which is referred to in this Panel report, is being processed and will be distributed by 24 May 1962.

