

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

DOCUMENTATION FOR ARTICLE XII:4(b) AND ARTICLE XVIII:12(b) CONSULTATIONS

Note by the Chairman of the Committee on Balance-of-Payments Restrictions

1. At its recent meeting the Committee's attention was drawn to the difficulties that had been caused to governments and delegations by the lateness in the distribution of documents which were to serve as a basis for discussion in the Committee. In some cases the interval between their distribution and the commencement of the discussions was so short that governments found it impossible to make use of the information supplied in preparing their briefs and instructions in time for the discussion.
2. The arrangements and procedures for the Committee's consultations were agreed in 1958 following the recommendations of a Working Party on the problem. A background note which describes these procedures is attached. After discussion of the current problems the Committee felt that it would be useful to draw this matter to the attention of contracting parties again and the following arrangements in respect of future consultations were agreed:
 - (a) The basic documents for a consultation should be circulated at least three weeks before the opening of the Committee meeting at which the consultation is to take place.
 - (b) If the documents are not distributed by that time the consultation should be postponed.
3. The Committee urges all contracting parties concerned to co-operate in supplying relevant material to the secretariat as early as possible to permit this time-table to be kept. This in turn will assist the Committee in the more effective discharge of its work.

PROCEDURES AND ARRANGEMENT FOR REGULAR CONSULTATIONS
ON BALANCE-OF-PAYMENTS IMPORT RESTRICTIONS

1. In 1958, when the revised provisions of Articles XII and XVIII entered into force, the CONTRACTING PARTIES, on the basis of recommendations of a working party, agreed upon certain arrangements and procedures for the conduct of the annual and biennial consultations under Article XII:4(b) and Article XVIII:12(b) (cf. BISD, Seventh Supplement, pages 90-98). Since then, while these arrangements and procedures have generally been followed modifications and adaptations have been found necessary from time to time to meet changing circumstances and the exigencies of particular cases. The present note describes these arrangements and procedures as they now stand.

Contents of the consultations

2. Consultations under Articles XII:4 and XVIII:12 cover the nature of the balance-of-payments difficulties of the contracting party in question, alternative measures which may be available and the possible effect of the restrictions on the economies of other contracting parties. They are intended to provide an opportunity for a free exchange of views contributing to a better understanding of the problems facing the consulting countries, of the various measures taken by them to deal with these problems, and of the possibilities of further progress in the direction of freer, multilateral trade. Annex I to the present paper sets out the "Plan of Discussion" approved by the CONTRACTING PARTIES for use in such consultations. Having regard to the diversity of circumstances, the Plan should not be regarded as a rigid programme, but might require suitable adaptation in individual cases. The special problems of each consulting country relating to its balance of payments should perforce be given careful consideration. Account should be taken of all factors, both internal and external, which effect the balance-of-payments position of the consulting country.

3. The CONTRACTING PARTIES have agreed that in the consultations on balance of payments and other trade and development problems of developing countries provided for in GATT, particular attention should be given to the possibilities for alleviating and correcting these problems through measures that contracting parties might take to facilitate an expansion of the export earnings of these countries. Such "expanded consultations" are to be held with any less-developed contracting party normally consulting under Article XVIII:12(b) which desires that a particular consultation be held on this basis.

Documentation for the consultations

4. The secretariat should circulate a "basic document" for each consultation. As the financial aspects of the restrictions will be fully dealt with in the background papers supplied by the International Monetary Fund, the document should

concentrate on the trade aspects of the restrictions. A chronological account should be given of the more important changes made in the controls and restrictions in the preceding years or since the preceding consultation. The document may be prepared by the secretariat on the basis of information available¹ and in full consultation with the contracting party concerned. The consulting government should at any rate supply a statement on its current policy on the use of import restrictions for inclusion in the document. Alternatively, the contracting party might itself provide the text of the entire document, which should be circulated after incorporating such alterations or supplementary information as may be suggested by the secretariat and accepted by that contracting party. Annex II to this paper enumerates the headings under which information is expected to be included in such documents.

5. The Working Party on Balance-of-Payments Restrictions which met in 1958 recommended in its report that basic documentation should in general be circulated a month before the opening of the relevant consultations. In March 1970 the Committee decided that a final deadline would also have to be set in order to allow sufficient time for contracting parties to examine the basic documentation and to prepare the necessary briefs and instructions. This deadline is to be three weeks before the opening of this Committee Session at which the consultation with the country concerned is to take place. The Committee also agreed that if the documentation is not circulated by that time, the consultation should be postponed.

Time schedule for the consultations

6. Every January, the secretariat should circulate and submit to the Council a time schedule for the consultations to be held in that year. This should be drawn up in consultation with the contracting parties concerned, and in the light of the programme and progress of the consultations of the International Monetary Fund with the governments concerned, so as to ensure that the most up-to-date and meaningful possible data form part of the Fund's contribution to these consultations in GATT. The time schedule may be modified as necessary in the light of changing circumstances.

7. Normally the consultations to be held in one year will be grouped so that they can be taken up at two to four continuous sessions of the Committee on Balance-of-Payments Restrictions.

¹In order to facilitate the preparation of this documentation contracting parties applying import restrictions for balance-of-payments reasons are required to keep the secretariat regularly informed of any changes in their control system and transmit to it all relevant documentation (e.g. new laws and decrees, regulations, import programmes, policy statements, public notices, licensing instructions, etc.) which will enable the secretariat to prepare the basic documents for the consultations. (The regular transmission of such information is also necessary in connexion with the implementation of the provisions of Articles XII:4(a) and XVIII:12(a) - see BISD, Ninth Supplement, pages 18-19.)

Consultations with the IMF

8. Under paragraph 2 of Article XV the CONTRACTING PARTIES are required to consult with the IMF on the points specified in that paragraph. As soon as the programme of consultations for the year is drawn up and taken note of by the Council, the Director-General should send a communication to invite the IMF to consult with the CONTRACTING PARTIES in connexion with each of the GATT consultations. In each case the GATT-IMF consultations will take place in the Committee on Balance-of-Payments Restrictions prior to the GATT consultation.

9. The material supplied by the IMF as part of a consultation between the Fund and GATT should be circulated to the members of the Committee as soon as possible after it is received by the secretariat. A copy may be supplied to any other contracting party which requests it.

The Committee on Balance-of-Payments Restrictions

10. It has been intended that the composition of the Committee on Balance-of-Payments Restrictions, which conducts the consultations on behalf of the CONTRACTING PARTIES, should reflect as far as possible the characteristics of the contracting parties in general in terms of their geographical location, external financial position and stage of economic development, and that the size of the Committee should be suited to the nature of its work. The present membership and terms of reference of the Committee are shown in Annex III.

11. Members of the Committee should designate as their representatives persons of adequate competence and acquaintance with the problems to be dealt with by the Committee. Efforts should be made to ensure continuity in the representation on the Committee.

12. In accordance with the rules and procedures of the CONTRACTING PARTIES, any contracting party which is not a member of the Committee but which is interested in one or more of the consultations, may be represented at the meeting on the Committee and participate fully in the discussion.

Reports on the consultations

13. At the conclusion of each consultation, the Committee should draw up a report, which should provide a succinct record and summing up of the important points discussed. It has not been considered useful to give a detailed rendering of individual interventions.

14. The reports should be circulated to all the contracting parties as and when they are completed by the Committee, and should be submitted to the Council for approval and for forwarding to the next session of the CONTRACTING PARTIES.

Annex I

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

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(c) and the proviso to Article XVIII:10.

Annex II

BASIC DOCUMENT FOR A CONSULTATION
UNDER ARTICLE XII:4(b) OR ARTICLE XVIII:12(b)

Points to be Covered

1. Legal and administrative basis of the import restriction.
2. Methods used in restricting imports.
3. Treatment of imports from different sources including information on the use of bilateral agreements.
4. Commodities, or groups of commodities, affected by the various forms of import restrictions.
5. State trading, or government monopoly, used as a measure to restrict imports for balance-of-payments reasons.
6. Measures taken since the last consultation in relaxing or otherwise modifying import restrictions.
7. Effects of the import restriction on trade.
8. General policy in the use of restrictions for balance-of-payments reasons.

Annex III

COMMITTEE ON BALANCE-OF-PAYMENTS RESTRICTIONS

Chairman: Mr. F.R. PETRIE (Canada)

Vice Chairman: Mr. Roderick E. Abbott (United Kingdom)

Membership:

Australia	Finland	Sweden
Brazil	Ghana	United Kingdom
Canada	India	United States
European Communities and member States	Japan	Uruguay

Terms of Reference:

To conduct the consultations under Article XII:4(b) and Article XVIII:12(b) as well as any such consultations as may be initiated under Article XII:4(a) or Article XVIII:12(a).