

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## WORKING PARTY 5 ON BALANCE-OF-PAYMENT IMPORT RESTRICTIONS

### DRAFT REPORT TO THE CONTRACTING PARTIES

#### Part II: Third Annual Report on Discriminatory Application of Restrictions

(Paragraph (b) of Terms of Reference)

The Working Party was asked to prepare a draft third Annual report on the discriminatory application of import restrictions as required by Article XIV:1(g). Accordingly, the attached draft has been prepared and is herewith submitted to the CONTRACTING PARTIES for approval.

It will be noted that the attached draft includes a statement on the consultations on the continuance of discriminatory policies which the CONTRACTING PARTIES have conducted at this Session in accordance with Article XIV:1(g).

Part II of the draft, the descriptive notes on discriminatory action, is being completed by the secretary in discussion with the delegations concerned.

DRAFT

THIRD REPORT (1952) BY THE CONTRACTING PARTIES  
ON THE DISCRIMINATORY APPLICATION OF IMPORT RESTRICTIONS  
UNDER THE TRANSITIONAL PERIOD ARRANGEMENTS OF ARTICLE XIV  
Including a Report on the Consultations in 1952 on  
continued Deviation from the Rule of Non-discrimination

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PART TWO

Notes on the Discriminatory Application of the  
Quantitative Restrictions maintained by the  
following Governments:

Australia	India
Austria	Italy
Brazil	Netherlands
Ceylon	New Zealand
Chile	Norway
Denmark	Pakistan
Finland	Southern Rhodesia
France	Sweden
Germany	Turkey
Greece	Union of South Africa
	United Kingdom

## I. INTRODUCTION

1. Article XI of the GATT contains a general prohibition on the use of import restrictions. Under Article XII of the Agreement, however, contracting parties are, in certain circumstances permitted to maintain import restrictions in order to safeguard their balances of payments and monetary reserves. Article XIII requires that such import restrictions should be non-discriminatory in their application. During the so-called postwar transitional period, however, contracting parties may, under certain circumstances and subject to the provisions of Article XIV, deviate from the general rule of non-discrimination but only so long as they are having recourse to the transitional period arrangements of the Articles of Agreement of the International Monetary Fund. Contracting parties have undertaken that the discriminatory policies applied under Article XIV will be designed to promote the maximum development of multilateral trade possible during the post-war transitional period and to expedite the attainment of a balance-of-payment position which will no longer require resort to the use of restrictions for these purposes.

2. Under paragraph 1(g) of Article XIV, the contracting parties are required to report annually on any action which they are still taking under the provisions for the use of discrimination. In addition, under the same sub-paragraph, in each year from 1952 onwards countries which continue to discriminate under certain of the provisions of Article XIV have to consult with the CONTRACTING PARTIES as to their continued resort to discrimination. At the time of writing this report<sup>1</sup> in October 1952, twenty-one of the thirty-four contracting parties to the Agreement have stated that they maintain restrictions on imports to safeguard their balances of payments and are exercising some degree of discrimination between sources of supply; these are Australia, Austria, Brazil, Ceylon, Chile, Denmark, Finland, France, Germany, Greece, India, Italy, Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, Sweden, Turkey, Union of South Africa and United Kingdom.

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The 1950 report was entitled First Report on the Discriminatory Application of Import Restrictions. The second report (1951) was written during the Sixth Session and was incorporated in the CONTRACTING PARTIES' report on their review of all the restrictions applied under Article XII as required by paragraph 4(b) of that Article; that report is entitled The Use of Quantitative Import Restrictions to Safeguard Balances of Payments

3. The Governments of Czechoslovakia and Indonesia also apply balance-of-payment restrictions under Article XII but have stated that their restrictions are non-discriminatory. Nine contracting parties, namely Belgium, Canada, Cuba, Dominican Republic, Haiti, Luxemburg, Nicaragua, Peru and United States, have reported that they are not restricting imports for balance-of-payment reasons. The Governments of Burma and Liberia have not advised the CONTRACTING PARTIES whether they maintain restrictive measures under the provisions of Article XII.

4. This third report is based on material supplied by the International Monetary Fund, statements received from the governments applying discrimination and on discussions with their delegations attending the Seventh Session of the CONTRACTING PARTIES in October 1952. In order to avoid repetition of what has been said on this subject on the two previous occasions, the report is devoted, principally, to an examination of the changes that have taken place in the discriminatory practices of governments since the close of the Sixth Session in October 1951. In addition, the report examines some of the commercial implications as well as the financial basis for the discrimination policy and contains a note on the consultations which have taken place, during the Seventh Session, with certain governments on the continuance of their discrimination policy.

5. In Part II will be found notes describing briefly the discriminatory action currently practised by each of the twenty-one governments. These notes were compiled principally from information furnished by the governments themselves.

## II. DISCRIMINATION IN 1952

6. At their Sixth Session, in September and October 1951, the CONTRACTING PARTIES reviewed the import restrictions maintained to safeguard the exchange reserves of governments adhering to the General Agreement on Tariffs and Trade. They were then able to report that the external financial position of many countries had greatly improved when compared with the situation in the earlier post-war years. Substantial progress had been made in removing or relaxing restrictions on imports and in mitigating the discriminatory application of those restrictions which remained, but during 1952 for a number of countries, balance-of-payment difficulties became

more severe and exchange reserves were again reduced. As a result import restrictions were intensified.

7. This intensification of import restrictions by a number of contracting parties resulted in some modification of the policy and degree of discrimination described in previous reports. Countries experiencing overall balance-of-payment difficulties found it necessary to reduce imports from non-dollar as well as dollar countries. These changes applied particularly to the countries participating in the two group arrangements described in the earlier reports. It will be recalled that these reports showed that at that time the degree of discrimination exercised by most contracting parties practising discrimination was closely related to the group arrangements to which they were parties, namely the sterling area group and the OEEC group. Trade among the sterling area countries was practically free of quota restriction and in the OEEC group a substantial relaxation of restrictions on trade among members of the group had taken place. Moreover in many instances, members of one group extended relaxations to members of the other.

8. In the period covered by this report, however, the tendency described in the preceding paragraph was to some extent reversed. In November 1951, the United Kingdom Government announced a wide reimposition of controls on imports previously allowed in without restriction from Western Europe and other non-dollar, non-sterling countries. The measures introduced then and in the first half of 1952 terminated many of the open general licences, under which a large section of the private imports from soft-currency countries had been admitted without quantitative limitation, and introduced quantitative quotas allowing imports without discrimination as among these countries. This action by the United Kingdom was followed shortly by the suspension by the Government of France of the measures previously taken under the OEEC liberalization programme; licensing requirements were re-established for all imports from the area of the European Payments Union. Meanwhile certain European countries intensified their restrictions on dollar imports, as part of the measures to cope with the deterioration in their payments positions; but the incidence of the additional restrictions in general fell more on imports from other soft-currency countries than on imports from dollar sources.

9. Other countries in the sterling area also intensified import restrictions. Australia, which had previously applied restrictions only on imports from a limited number of countries, extended in March 1952 its import restrictions to imports from all supplying countries. For countries newly brought under licensing, quotas

were established on the so-called "global" principle under which quotas were granted (without any discrimination as between different countries) for imports from any country other than the dollar area, Japan and a limited number of other countries. An additional measure taken by the Australian Government was the recall for consideration of all outstanding licences for imports from the dollar area and Japan. New Zealand also recalled and reviewed outstanding dollar licences and applied a stricter criterion of essentiality when considering applications for dollar import licences. In March 1952 imports of motor vehicles from non-dollar sources were brought under quantitative control. Ceylon, Pakistan, South Africa, Southern Rhodesia and several overseas dependencies of the United Kingdom modified their restrictions in 1952; the measures not only affected dollar expenditure but also had an impact on trade with EPU and other non-sterling countries. The two contracting parties in Latin America which apply quantitative import restrictions - Brazil and Chile - also experienced payments difficulties in 1952 and tightened their import controls.

10. Some members of the OEEC which maintain discrimination extended their liberalization of trade with other EPU countries in 1952. The Netherlands and Norway have achieved the goal of 75 per cent liberalization of imports on private account from other OEEC countries; while Germany, Italy and Sweden have gone even further.

11. Where the intensification described above affected principally imports from non-dollar countries the degree of discrimination against dollar goods was reduced. Certain countries modified their discrimination policy in favour of dollar imports. This was partly influenced by the fact that imports from non-dollar countries were a charge on hard-currency reserves, e.g. certain deficit countries in EPU. During the past year, therefore, the payments difficulties of many contracting parties resulted in intensification of import restrictions, but these were applied much more generally than in earlier years. Discrimination against dollar imports became, therefore, less marked than hitherto and in some cases administrative policy was modified towards that end.

### III. THE CONSULTATIONS IN 1952 ON THE CONTINUANCE OF DISCRIMINATION

12. The provisions of Article XIV, under which countries are discriminating, were intended to give recognition to the fact that the aftermath of the second World War had brought difficult problems of economic adjustment which did not permit the immediate full achievement of non-discriminatory administration of quantitative restrictions. Therefore, provision was made for exceptional arrangements during the post-war transitional period.

13. Permission to deviate from the non-discrimination rule in the application of balance-of-payment restrictions is, in part, related to the provisions of Article XIV of the Articles of Agreement of the International Monetary Fund. Section 2 of that Article provides that, subject to certain conditions, in the post-war transitional period members may maintain and adapt to changing circumstances restrictions on payments and transfers for current international transactions. Section 4 of the same Article in part states, "Five years after the date on which the Fund begins operations, and in each year thereafter, any member still retaining any restrictions inconsistent with Article VIII, Sections 2, 3 or 4, shall consult the Fund as to their further retention". These consultations began in 1952. Under Article XIV:1(b) of the General Agreement, a contracting party may discriminate in the application of its trade restrictions in a manner having equivalent effect to the exchange restrictions which it may apply under the Fund Agreement. Most of the contracting parties which resort to discriminatory practices pursuant to Article XIV do so wholly under the provisions of paragraph 1(b), namely: Austria, Brazil, Chile, Denmark, Finland, France, Germany, Greece, India, Norway, Pakistan, Sweden and Turkey.

14. Governments operating under certain of the provisions permitting discrimination are required to consult with the CONTRACTING PARTIES. In such consultations, the CONTRACTING PARTIES may, in exceptional circumstances, make representations to a government that conditions are favourable for the termination of a particular deviation from the provisions of Article XIII or for the general abandonment of deviations. These consultations are to be annual, commencing in 1952. Under paragraph 1(c) of Article XIV, discrimination applied on 1 March 1948 which would not have been authorized at that time as being equivalent to exchange restrictions permitted under the Fund Agreement, may be maintained and adapted to changing circumstances subject to the annual consultation. In 1952, Australia, Italy and the Netherlands initiated

consultations. Several other contracting parties elected to be governed by an alternative set of regulations permitting the use of discriminatory measures. These are the provisions of Annex J whereunder the contracting parties so governed may relax their balance-of-payment import restrictions, subject to certain criteria concerning prices, the disposal of their earnings of gold and convertible currencies, etc. in a manner which involves discrimination to the extent necessary to obtain additional imports above the maximum which they could otherwise obtain. The four contracting parties employing restrictions under Annex J, and which are therefore required to consult annually with the CONTRACTING PARTIES, are Ceylon, Southern Rhodesia, Union of South Africa and United Kingdom. In addition, the Government of New Zealand, though not a member of the International Monetary Fund, and not having accepted a special exchange agreement with the CONTRACTING PARTIES, advised that it would be prepared to enter into a consultation.

15. The CONTRACTING PARTIES consulted with five of these eight governments at their Seventh Session, namely Australia, Ceylon, Italy, the Netherlands and United Kingdom. In accordance with the procedure for the 1952 consultations adopted at the Sixth Session, the International Monetary Fund supplied the CONTRACTING PARTIES with the results of its consultations with the same countries under Article XIV of the Fund Agreement together with background material prepared for these consultations. Representatives of the Fund participated in the discussions. The consultations with New Zealand, Southern Rhodesia and the Union of South Africa were postponed until a later date in order that the CONTRACTING PARTIES would have the benefit of material to be submitted by the International Monetary Fund.

16. The five consultations were carried out pursuant to the provisions of Article XIV:1(g), the subject matter being the deviations from Article XIII still in force and the need for continued resort to the provisions of Article XIV:1(c) or Annex J. Despite the varying provisions of the Agreement which were applicable, each of the governments discussed the entire range and impact of its restrictions. In these consultations the CONTRACTING PARTIES paid more attention than in the past to the trade aspects of the discrimination policy in addition to the financial basis for the discriminatory application of the restrictions. The consultations were conducted as an exchange of views rather than to seek collective pronouncements on the justification of the discriminatory policies of the countries under review.

17. The consultations provided an opportunity for governments to inform each other of their trade difficulties and to seek solutions based on an expansion of international trade. Contracting parties sought information on the policy and administration of the restrictions in respect of particular commodities in order to illustrate the actual working of the restrictive systems and better to understand both the problems facing the countries imposing restrictions and the difficulties which the practice of discrimination inevitably creates for exporting countries. They also enquired into the licensing procedures, the allocation of quotas, the programming of imports from the various currency areas and the purchase commitments contained in bilateral agreements. General interest was shown in the techniques employed by governments in the purchasing and licensing of goods when prices in soft-currency countries were at a premium over dollar prices of similar goods. The consulting governments recognized the importance of maintaining a continuing examination of price levels to avoid the inflationary effect of over-priced imports.

18. The CONTRACTING PARTIES discussed with the consulting governments possible corrective measures designed to deal, in a fundamental way, with the persistent exchange difficulties which gave rise to the widespread use of import restrictions and trade discrimination. In this connection considerable attention was given to the relationship between internal monetary and fiscal policies pursued by various governments and their balance-of-payment position. This emphasis on internal financial stability reflected the growing recognition by governments that internal inflation is one of the root causes of external disequilibrium. Consulting governments outlined the various fiscal and credit measures which they had taken to combat inflation and to reduce excessive pressures on resources. Several consulting governments were able to report substantial improvements in their balance-of-payment position consequent upon the introduction of anti-inflationary policies. It was noted that the International Monetary Fund, in its own consultations under Article XIV of the Fund Agreement, had emphasized the importance of monetary and fiscal measures in restoring international equilibrium and had noted with satisfaction the achievements of some of these governments in this field while in other cases urging that additional efforts should be made in order to improve upon the results thus far obtained.

19. The consultations provided an opportunity for a full and frank discussion in which the consulting governments readily provided the information required by other contracting parties. Opinions were freely exchanged in a spirit of co-operation and confidence, and an understanding was reached on many points. The consulting governments

acknowledged the importance of applying the restrictions in such a manner as to avoid unnecessary damage to the commercial and economic interests of other contracting parties and to reduce to a minimum the incidental protective effects resulting from the application of restrictions. It was found that each government had taken some positive steps to achieve these ends. The representatives of the governments whose discriminatory restrictions were the subject of the consultations indicated that the views expressed by other contracting parties would be conveyed to their respective governments.

#### IV. TRADE ASPECTS OF THE DISCRIMINATION POLICY

20. A good part of the consultations described in the preceding section was devoted this year to an examination of the effect of discriminatory import restrictions on the economies of the contracting parties and on international trade generally.

21. Particular attention was paid to the incidental effects of import restrictions and discrimination. The discussion showed that such restrictions by affording protection to domestic industries producing similar goods, tend to lead to uneconomic production, the weaknesses of which would be revealed when restrictions are removed. Furthermore, there is a danger of uneconomic allocation of resources, if certain industries became insulated too long from foreign competition. This could impede the very efforts of those countries to improve their balance-of-payment position.

22. There was an awareness also of the effect on prices of import restriction and discrimination. A number of countries practising discrimination could, by concentrating their demands on particular areas of supply, drive prices up to uneconomic levels. This would result in higher import costs thereby aggravating their overall balance-of-payment positions, and would at the same time, add to internal costs.

23. Discussion showed that this tendency could have particularly detrimental effects on the economies of importing countries where higher priced raw materials are being bought. The purchase of raw materials at such higher prices could have an adverse effect on export, because producers through having been forced to buy the higher priced material would not be able to compete effectively with producers buying raw materials at more favourable prices.

24. It was realised also that discrimination could have a protective effect on the favoured supplying country. Distortions could be set up in the economy of the country selling to a series of sheltered markets at high prices and the removal of discrimination might necessitate difficult adjustments. The use of bilateral trade agreements of some kinds encourage this development.

25. These inherent dangers in discriminatory import restrictions were recognized by the CONTRACTING PARTIES. The consultations showed that the several governments imposing restrictions had all adopted measures of varying scope designed to minimize the harmful incidental effects of restriction and discrimination.

26. Certain contracting parties showed that the use of the "global" type quota reduced the danger of high priced imports. The broader the scope of this type of quota, the larger the field of competition; and countries which had found it possible to introduce quotas applicable to any source of supply on a non-discriminatory basis had experienced beneficial results by way of reduced prices. Other governments found that a sudden relaxation on the import of particular commodities whose domestic prices were uneconomically high brought about a favourable down-turn. Countries which had found it necessary to intensify their import restrictions had, in some cases, intensified restrictions on imports from the most expensive sources first, leaving the cheapest sources to the last. It was also found that where controls over investment or over scarce materials were in force, a check could be placed on the expansion of industries receiving incidental protection from import restriction. Several of the contracting parties consulting at this Session reported that they had warned their producers not to rely upon the continuation of the incidental protection afforded by balance-of-payment restrictions.

27. These ameliorative measures coincide in many respects with those recommended by the CONTRACTING PARTIES in their 1949 report - "The Use of Quantitative Restrictions for Protective and Other Commercial Purposes". The discussions this year confirm the conclusions reached in 1949, that there are great dangers in applying quantitative restrictions for a long period. Policies directed towards minimizing the protective effects of restrictions are of the greatest importance but these ameliorative measures cannot wholly eliminate the dangers mentioned above so long as import restrictions remain in force.

28. Discriminatory quantitative restrictions cannot in themselves be regarded as providing a satisfactory solution to balance-of-payment difficulties. At most, they can prevent a further deterioration in a country's reserves position pending the adoption of fundamental corrective action. When maintained for long periods, their effect on a country's industry and trade are such as to add to the balance-of-payment difficulties and perpetuate them.