

DECLARATION ON TRADE MEASURES TAKEN
FOR BALANCE-OF-PAYMENTS PURPOSES

*Adopted on 28 November 1979
(L/4904)*

The CONTRACTING PARTIES,

Having regard to the provisions of Articles XII and XVIII:B of the General Agreement;

Recalling the procedures for consultations on balance-of-payments restrictions approved by the Council on 28 April 1970¹ and the procedures for regular consultations on balance-of-payments restrictions with developing countries approved by the Council on 19 December 1972²;

Convinced that restrictive trade measures are in general an inefficient means to maintain or restore balance-of-payments equilibrium;

Noting that restrictive import measures other than quantitative restrictions have been used for balance-of-payments purposes;

Reaffirming that restrictive import measures taken for balance-of-payments purposes should not be taken for the purpose of protecting a particular industry or sector;

Convinced that the contracting parties should endeavour to avoid that restrictive import measures taken for balance-of-payments purposes stimulate new investments that would not be economically viable in the absence of the measures;

Recognizing that the less-developed contracting parties must take into account their individual development, financial and trade situation when implementing restrictive import measures taken for balance-of-payments purposes;

Recognizing that the impact of trade measures taken by developed countries on the economies of developing countries can be serious;

Recognizing that developed contracting parties should avoid the imposition of restrictive trade measures for balance-of-payments purposes to the maximum extent possible;

¹BISD 18S/48-53.

²BISD 20S/47-49.

Agree as follows:

1. The procedures for examination stipulated in Articles XII and XVIII shall apply to all restrictive import measures taken for balance-of-payments purposes. The application of restrictive import measures taken for balance-of-payments purposes shall be subject to the following conditions in addition to those provided for in Articles XII, XIII, XV and XVIII without prejudice to other provisions of the General Agreement:

(a) In applying restrictive import measures contracting parties shall abide by the disciplines provided for in the GATT and give preference to the measure which has the least disruptive effect on trade¹;

(b) The simultaneous application of more than one type of trade measure for this purpose should be avoided;

(c) Whenever practicable, contracting parties shall publicly announce a time schedule for the removal of the measures.

The provisions of this paragraph are not intended to modify the substantive provisions of the General Agreement.

2. If, notwithstanding the principles of this Declaration, a developed contracting party is compelled to apply restrictive import measures for balance-of-payments purposes, it shall, in determining the incidence of its measures, take into account the export interests of the less-developed contracting parties and may exempt from its measures products of export interest to those contracting parties.

3. Contracting parties shall promptly notify to the GATT the introduction or intensification of all restrictive import measures taken for balance-of-payments purposes. Contracting parties which have reason to believe that a restrictive import measure applied by another contracting party was taken for balance-of-payments purposes may notify the measure to the GATT or may request the GATT secretariat to seek information on the measure and make it available to all contracting parties if appropriate.

4. All restrictive import measures taken for balance-of-payments purposes shall be subject to consultation in the GATT Committee on Balance-of-Payments Restrictions (hereinafter referred to as "Committee").

5. The membership of the Committee is open to all contracting parties indicating their wish to serve on it. Efforts shall be made to ensure that the composition of the Committee reflects 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.

¹It is understood that the less-developed contracting parties must take into account their individual development, financial and trade situation when selecting the particular measure to be applied.

6. The Committee shall follow the procedures for consultations on balance-of-payments restrictions approved by the Council on 28 April 1970¹ (hereinafter referred to as "full consultation procedures") or the procedures for regular consultations on balance-of-payments restrictions with developing countries approved by the Council on 19 December 1972² (hereinafter referred to as "simplified consultation procedures") subject to the provisions set out below.

7. The GATT secretariat, drawing on all appropriate sources of information, including the consulting contracting party, shall with a view to facilitating the consultations in the Committee prepare a factual background paper describing the trade aspects of the measures taken, including aspects of particular interest to less-developed contracting parties. The paper shall also cover such other matters as the Committee may determine. The GATT secretariat shall give the consulting contracting party the opportunity to comment on the paper before it is submitted to the Committee.

8. In the case of consultations under Article XVIII:12 (b) the Committee shall base its decision on the type of procedure on such factors as the following:

- (a) the time elapsed since the last full consultations;
- (b) the steps the consulting contracting party has taken in the light of conclusions reached on the occasion of previous consultations;
- (c) the changes in the overall level or nature of the trade measures taken for balance-of-payments purposes;
- (d) the changes in the balance-of-payments situation or prospects;
- (e) whether the balance-of-payments problems are structural or temporary in nature.

9. A less-developed contracting party may at any time request full consultations.

10. The technical assistance services of the GATT secretariat shall, at the request of a less-developed consulting contracting party, assist it in preparing the documentation for the consultations.

11. The Committee shall report on its consultations to the Council. The reports on full consultations shall indicate:

- (a) the Committee's conclusions as well as the facts and reasons on which they are based;

¹BISD 18S/48-53.

²BISD 20S/47-49.

- (b) the steps the consulting contracting party has taken in the light of conclusions reached on the occasion of previous consultations;
- (c) in the case of less-developed contracting parties, the facts and reasons on which the Committee based its decision on the procedure followed; and
- (d) in the case of developed contracting parties, whether alternative economic policy measures are available.

If the Committee finds that the consulting contracting party's measures

- (a) are in important respects related to restrictive trade measures maintained by another contracting party¹ or
- (b) have a significant adverse impact on the export interests of a less-developed contracting party,

it shall so report to the Council which shall take such further action as it may consider appropriate.

12. In the course of full consultations with a less-developed contracting party the Committee shall, if the consulting contracting party so desires, give particular attention to the possibilities for alleviating and correcting the balance-of-payments problem through measures that contracting parties might take to facilitate an expansion of the export earnings of the consulting contracting party, as provided for in paragraph 3 of the full consultation procedures.

13. If the Committee finds that a restrictive import measure taken by the consulting contracting party for balance-of-payments purposes is inconsistent with the provisions of Articles XII, XVIII:B or this Declaration, it shall, in its report to the Council, make such findings as will assist the Council in making appropriate recommendations designed to promote the implementation of Articles XII and XVIII:B and this Declaration. The Council shall keep under surveillance any matter on which it has made recommendations.

¹It is noted that such a finding is more likely to be made in the case of recent measures than of measures in effect for some considerable time.