

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPORT ON IMPORT RESTRICTIONS APPLIED UNDER

ARTICLE XII

Draft Report recommended by Working Party 6

1. INTRODUCTION

1. Most of the quantitative restrictions¹ applied by governments today are a legacy of two world wars and of the economic crises they have brought in their train. The strict control of trade exercised by most countries during the war of 1914-18 was relaxed soon after the conclusion of hostilities. Most of the quantitative restrictions which were not then eliminated had disappeared by the end of the 1920's following the reestablishment of the gold standard and the large-scale international lending which created at least a semblance of equilibrium in international economic relations. No doubt the few remaining instances would also have been abolished had the period of prosperity been prolonged.

2. A change came with the onset of economic depression in 1930. Among the trade restrictive measures used in the early 30's were increased tariff rates, bilateral trade agreements, preferential arrangements and quantitative import restrictions. By the time the halting recovery from the depth of the depression began in 1933, the attitude to restrictions was fundamentally different from that of earlier years when such measures were generally regarded as temporary expedients. The "planning" of foreign trade came to be more and more widely accepted as a normal function of government, and the weapons which had been forged for an emergency defence of balances of payments, currencies, prices or production were pressed into service as permanent elements of trade regulation. Bilateral balancing of trade was accepted by many countries as a natural

¹ The terms "quantitative restrictions" and "import restrictions" used in this Report are meant to include only those quantitative restrictions on imports as defined in Article XII which provides that a contracting party, in order to safeguard its external financial position and balance of payments, may restrict the quantity or value of merchandise permitted to be imported.

objective of commercial policy. Restrictions were considered essential to the programmes of national economic development and the advancement of self-sufficiency, especially in the totalitarian countries. Thus the use of restrictions in the inter-war period was widely extended as a supplementary means of protecting national agriculture and industry and even as a weapon of economic warfare. Nevertheless some progress had been made in relaxing these restrictions when, with the outbreak of a second world war, they gave way to a more complete control of trade.

3. After the war ended, in 1945, many of the restrictions in force were adapted to meet the exigencies of the post-war situation. Most of the belligerent countries were badly in need of consumer and capital goods which could be obtained only from countries whose productive capacity had been less directly affected by the war. But the low post-war level of monetary reserves and the reduced earnings of foreign exchange, combined with the general inconvertibility of currencies, had deprived them of the means of payment, and therefore they maintained a strict control of importation to ensure that their limited resources would be devoted to the needs commanding high priority. The import controls and restrictions were to be retained until export industries and other sources of foreign exchange could once more finance both essential and non-essential purchases as well as other current obligations.

4. When the General Agreement on Tariffs and Trade was drawn up in 1947, most of the governments which are now contracting parties were employing import restrictions for these purposes. Nevertheless they accepted the general rule that imports from the territories of contracting parties should not be prohibited and should not be controlled by means of restrictions other than duties, taxes and other charges. This undertaking, which is contained in Article XI of the Agreement, relates to all quantitative controls whether made effective through quotas, licences or other measures, and precludes the use of restrictions for many of the purposes for which they had been imposed in the decade before the war. Under the General Agreement protection is not to be accorded to domestic industry by means of the quantitative restriction of imports.

5. The Agreement provides exceptions for the use of restrictions in certain circumstances and under defined conditions. With the approval of the CONTRACTING PARTIES restrictions may be imposed temporarily to promote economic development or reconstruction, but the most important of the exceptions is that contained in Article XII which allows a contracting party to restrict imports, either by quantity or by value, in order to safeguard its external financial position and balance of payments. Imports may be restricted to the extent necessary to forestall an imminent threat of, or to stop, a serious decline in monetary reserves or to increase reserves which have fallen to a very low level. It was expected when these provisions were inserted in the Agreement that within a few years the world economy would recover from the post-war financial disequilibrium sufficiently to allow the restoration of currency convertibility and the removal of most balance-of-payment restrictions. Hence it was stipulated that the CONTRACTING PARTIES should review in 1951 the restrictions still being applied under Article XII. It is this review of the restrictions applied by contracting parties for balance-of-payment reasons that gives rise to the present Report.

6. This Report, however, serves a dual purpose in that it includes the second annual report by the CONTRACTING PARTIES on the discriminatory application of restrictions. The basic rule, forbidding discrimination in trade control, is contained in Article XIII; this requires contracting parties in their administration of restrictions to aim at a distribution of trade which approaches as closely as possible the shares which the various contracting parties could expect to obtain if imports were not restricted. An exception to this rule permits a contracting party, if it applies import restrictions under Article XII, to discriminate during the post-war transition period between sources of supply in accordance with the exigencies of its balance-of-payment situation. Under Article XIV the CONTRACTING PARTIES are required to report each year on the discriminatory application of these restrictions: the first report was published in 1950¹, and the relevant sections herein constitute the second report.

¹ First Report on the Discriminatory Application of Import Restrictions, March 1950 (Sales No. GATT/1950-1) obtainable from sales agents of the United Nations.

7. The Agreement requires contracting parties which apply restrictions under Article XII to relax them progressively as conditions improve, maintaining them only to the extent that the position of their balance of payments and the level of their monetary reserves still justify their application, and to eliminate them altogether when conditions no longer justify their maintenance. Further, commencing in 1952, the CONTRACTING PARTIES are called upon to engage in annual consultations with governments which still discriminate in the application of their restrictions. Hence, sections of this Report are devoted to the problems which contracting parties will encounter when they come to remove their restrictions and to the prospects for their early relaxation in the light of world conditions today.

8. Twenty of the contracting parties have stated that they are resorting to the provisions of Article XII and are employing quantitative import restrictions to redress their balance of payments; these are: Australia, Brazil, Ceylon, Chile, Czechoslovakia, Denmark, Finland, France, Greece, India, Indonesia, Italy, Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, Sweden, Union of South Africa, and the United Kingdom. The Governments of Austria, Germany and Turkey became contracting parties during October 1951 and have stated that they are also applying restrictions for balance-of-payment reasons; the Government of the Philippines, which does not expect to accede to the Agreement until early in 1952, has made a similar statement. Nine contracting parties, namely Belgium, Canada, Cuba, Dominican Republic, Haiti, Luxemburg, Nicaragua, Peru and the United States, have stated that they are not taking action under these provisions.¹

9. The subject matter of this Report closely affects the economic policies of many governments and therefore, in concluding these introductory remarks, a word of caution is needed. The provisions of the General Agreement are highly complex and technical, and in order not to burden the reader with lengthy, legal phraseology the rights and obligations of contracting parties are described in this Report in simple, non-technical terms. Therefore the reader should bear in mind that before judging the action of any government it would be necessary to refer to the text of the Agreement itself. For convenience of reference the articles which are particularly relevant to this review are reproduced in an annex; but even these must be read in the context of the Agreement as a whole.

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The Governments of Burma and Liberia have not informed the Contracting Parties of their position in relation to action under Article XII.

2. METHODS OF RESTRICTION

(i) The Limitation of Imports

10. The common form of the restriction on imports is the prohibition-except-under-licence promulgated by the government as a regulation governing the conduct of private trade. Quantitative restrictions are imposed by laws and decrees, and an administration is established to examine applications for permission to import.

11. Article XIII provides a guide for contracting parties in administering their restrictions. If possible the total amount of each product to be admitted in a future period (the global quota) is to be announced in advance. A global quota may be open for imports from any source or it may be divided among supplying countries; if divided the allocation is to be made if possible by agreement with all the contracting parties having a substantial interest in supplying the product concerned. Alternatively, the global quota may be divided among countries of supply in proportion to the quantities imported during a previous representative period, adjustments being made for special factors which may have affected the volume or direction of trade. It appears, however, that there is no instance in which multilateral agreement has been sought for the division of a quota among supplying countries, and the representative-period method also is seldom used. Owing to the prevailing practice of discrimination under Article XIV, the procedures for the allocation of quotas are adapted to the overriding consideration of the availability of the currency in which payment will have to be made. If quotas are fixed at all, they are fixed either in relation to earnings of foreign currencies or bilaterally in negotiations with countries of supply. But often the restriction is effected administratively

through the treatment of individual applications for licences.

12. The curtailment of expenditure on imports for the purpose of safeguarding the balance of payments may be applied also to trade conducted by, or on behalf of, the state, and therefore the General Agreement stipulates that the term "import restrictions", as used in Articles XI to XIV, includes "restrictions made effective through state-trading operations". The only contracting party which exercises a full governmental control of imports is Czechoslovakia, where importation is a function of monopoly, state-owned, trading companies. A programme of importation is approved for each company as part of the total import plan. The fulfilment of import programmes of the companies is subject to control of the Ministry of Foreign Trade which ensures that the trading activities of the companies conform to the Economic Five-Year Plan and the commitments to other governments. The Czechoslovak Government states that the balance of current payments, excluding trade, is passive, and therefore an effort is made to obtain a surplus on trading activities. The programmes of the importing companies are trimmed so as to require a smaller expenditure in foreign exchange than is earned by exportation.

13. The reduction of expenditure on imports by other contracting parties may be achieved in part by instructions to government departments, state monopolies and to purchasing commissions disposing of public funds to restrain their buying programmes. For most contracting parties the proportion of trade conducted by monopoly agencies or privileged enterprises is small and has tended to decline since 1948 as the trade in various commodities is returned to private hands. Nevertheless, in the trade of the United Kingdom it amounted in 1950 to 41%, and in the trade of France to nearly a quarter,

of total imports. For those contracting parties which have an extensive trade of this character the instructions to the buying agencies constitute an important element in the restrictive policy. Virtually every government today conducts some trade on its own account. Finland, France, Germany, Greece, Netherlands, Norway, Sweden, Turkey and the United Kingdom have reported that restrictions for balance-of-payment reasons are applied in varying degrees to state purchases.

(ii) The Practice of Discrimination

14. The discriminatory application of restrictions maintained under Article XII was examined by the CONTRACTING PARTIES at their Fourth Session in March 1950, and a report, as noted above, was approved and published. Article XIV: 1(g) of the Agreement requires an annual report by the CONTRACTING PARTIES so long as governments continue to deviate from the rule of non-discrimination of Article XIII. This they may do so long as they are availing themselves of the post-war transitional period arrangements under Article XIV of the Articles of Agreement of the International Monetary Fund or of analogous provisions of special exchange agreements between the governments concerned and the CONTRACTING PARTIES. Twenty-two of the governments which are taking action under Article XII of the General Agreement are availing themselves of the arrangements in the Articles of Agreement of the Fund, while Indonesia has availed itself of the analogous provisions of its special exchange agreement. Burma, Germany and New Zealand so far are not members of the Fund, nor have they yet accepted special exchange agreements.

15. Contracting parties applying import restrictions to safeguard their balance of payments are permitted under Article XIV to follow one or other of two sets of rules which limit the manner and extent of their deviations from the rule of non-discrimination. The first, called "the Havana option",

permits a contracting party -

under paragraph 1(b) of Article XIV to maintain discriminatory trade restrictions having an effect equivalent to exchange restrictions which it may at the time apply under the transitional period arrangements of the Articles of Agreement of the Fund, and

under paragraph 1(c) to maintain (and adapt to changing circumstances) any discrimination involved in balance-of-payment import restrictions which were being applied on 1 March 1948, but which would not be covered by paragraph 1(b).

The second, contained in Annex J, called "the Geneva option", permits the contracting parties which have elected to be governed by its provisions to administer their balance-of-payment import restrictions discriminatorily in such a way as to increase the total of their imports above the level which could be obtained if restrictions were applied without discrimination between sources of supply. For the sake of simplification it may be said that, subject to stated conditions and limitations, Article XII permits a government to determine what and how much will be imported, while Article XIV permits it to determine where the goods for importation will be bought.¹

16. Many countries in the postwar period, when many of the world's currencies are inconvertible, have been unable to acquire, either directly or indirectly, the amounts of the various currencies which their importers would desire to spend under regimes of non-discriminatory importation. The provisions of Article XIV and Annex J are designed to enable countries to obtain additional imports with their available means of payments by departing from the rule of non-discrimination. This rule, if strictly enforced, would necessitate uniform import restrictions and thus might require certain countries to contract their imports from some sources while they still possessed unutilized means of financing such imports. It may therefore be claimed that by departure from the rule of non-discrimination it has been

¹ This paragraph contains a mere paraphrasing of the provisions of the Agreement. Hence it is necessary to repeat the qualification, which appeared in the First Report on the Discriminatory Application of Import Restrictions that both Article XIV and Annex J include procedures for reporting and many important provisions aimed at avoiding the misuse of discriminatory import measures and limiting any longer-term adverse effects that such discriminatory practices might tend to produce. For this reason the above paragraph should not be used as a basis for considering the consistency of any particular import practice with the terms of the General Agreement; for that purpose direct reference to the terms of the Agreement itself would be essential.

possible to bring about an increase in the total trade of countries in balance-of-payment difficulties.

17. If no discrimination is intended, but it is still desired to restrict the total amount of imports of a commodity, licences which allow importers to obtain supplies of that commodity from any source up to the total amount, or "global quota", can be used. But licences bearing no reference to the country, or to the currency area, of supply are uncommon while most governments which are restricting imports are availing themselves of the transitional period arrangements for the discriminatory application of restrictions. In these circumstances it is only for use within specified areas (or alternatively for imports from any source other than specified areas) that such licences are granted. Otherwise the licence is valid only for a particular purchase - a fixed quantity at a known price and from a specified source. In state-trading operations, on the other hand, discrimination is effected by permitting the agent or monopoly management to place orders freely in specified countries whose currencies can be provided for payment, while limiting purchases from areas with which there are balance-of-payment difficulties, instead of basing the choice of supplier solely upon commercial considerations such as price, quality, marketability and other conditions of sale.

18. Unilateral Methods Discrimination is made effective generally by drawing a distinction between countries in accordance with availability of the currencies required for payment. In the planning or programming of imports, which is a common practice of countries applying restrictions, the quotas allocated to the various countries or the admission of unlimited quantities of certain commodities from particular supplying countries are considered in the light of anticipated currency availabilities. Where quotas are allocated among sources of supply, the allocation has been simplified very often by grouping supplying countries so that licences are valid for imports from any country in the group. Sometimes unlimited quantities of specified commodities may be admitted from one such list of supplying countries under "open general" licence while quantitative limitations are maintained on imports of these commodities from other countries. In fact some contracting parties have reduced the method of discrimination to a distinction between two lists of supplying countries, the composition of which may change from time to time. If quotas are not allocated in advance the issue of each licence is an individual administrative decision, and for imports in hard currencies the licences are issued only if it can be shown that the goods

to be imported command a high priority and cannot be obtained at an acceptable price in a soft-currency country. The test of essentiality and price advantage is less rigid for soft-currency imports and in some instances even the requirement of licences has been waived altogether or is merely a formality. The contracting parties which are governed by Annex J implement the price provisions of the Annex by administrative procedures involving a comparison of relative prices in various markets.

19. This unilateral method of determining the incidence of the discrimination policy is practised in some degree by all the contracting parties which are restricting imports. Except where an open licence for imports from soft-currency areas is in force or where the allocation of a quota is arranged by agreement with the exporting country, the determination of the national shares and the distribution of licences remain in the hands of the government applying the restriction. With few exceptions this is the method used in determining the volume of imports to be admitted from hard-currency countries - the administration retains flexibility and no commitment is made as to importation or the issue of licences.

When

restrictions are made effective administratively - that is, by decisions in respect of individual applications for licences without the fixing of quotas - the restricting government may nevertheless have an established though unannounced programme for importation. These import programmes relate principally to importation from hard-currency countries and are frequently revised in accordance with availability of the currencies required for payment.

20. A number of countries use this unilateral method almost exclusively:

the volume of their imports from soft- and well as from hard-currency countries is not fixed in advance except, possibly, in their own import programmes which, however, may be modified without reference to the countries of supply. The other countries use a combination of unilateral and bilateral methods.

21. Bilateral Methods - It has become a common practice with many governments to enter into bilateral negotiations on the quantities or total values of various goods or classes of goods to be imported from each other within fixed periods of time. The resulting agreements provide for the supply or purchase of minimum quantities or for making available fixed total values of foreign exchange to be used in the purchase of specified goods. Most agreements incorporate commitments which vary from estimates of total imports, or schedules of quotas for products for which the governments of the importing countries are prepared to issue licences, to undertakings to purchase or supply fixed quantities of stated commodities. The governments which are parties to these agreements endeavour by these means to increase their trade with one another. There is now an extensive network of such bilateral agreements, some of the contracting parties having as many as twenty.¹

22. There has been a tendency recently for governments to make more use of quotas which are valid for imports from a specified group of countries, thus widening the importer's choice of country of supply. To that extent the scope of bilateral bargaining has been reduced. One of the reasons why this practice is not more widely adopted is the fact that it reduces a government's bargaining power vis-à-vis other governments which adhere more strictly to the allocation of quotas to particular sources of supply.

¹ A list of current trade and payments agreements was published as a Supplement to the International Trade News Bulletin in August 1951.

23. Group Arrangements - The CONTRACTING PARTIES recorded in their first report on discrimination that a majority of the governments taking action under Article XII and XIV belong to one or other of two groups of countries, namely those which belong to the sterling area and the members of the Organization for European Economic Cooperation. The arrangements operating between the members of each of these two groups were generally described in the first report and need not be repeated here.

24. Most of the exemptions from restrictions and formalities which sterling area countries accord to each other are now extended to other soft-currency countries. All the countries of the sterling area are still restricting imports in varying degree from the dollar area, though several of them, e.g. Australia, Ceylon, India and New Zealand, have recently had surpluses of varying size in their balances of current dollar payments.

25. The members of the other group - the Organization for European Economic Cooperation - have adopted a programme for the removal of quantitative restrictions on intra-European trade which has a bearing upon the discriminatory application of their restrictions. Under this programme, the restrictions have been removed from an agreed percentage of each country's trade on private account with other participants, and several countries in the group have extended these exemptions in whole or in part to certain countries which are not members. The participating governments have stated that the removal of restrictions within the area was made possible by the establishment of transferability of their currencies through the European Payments Union. And they have stated the objectives of the scheme to be, first, to restore competition and to create a European market within which goods might circulate more freely and, secondly, to contribute to the ultimate restoration of multilateral trade throughout the world.

3. TRENDS OF POLICY AND EFFECTS

26. In examining the trade policy applied under Articles XII and XIV it will be useful to review the changes in the external financial position of the countries concerned and the progress made towards the restoration of multilateral trade.

27. The contracting parties whose import restrictions have been under review have not made uniform progress in economic recovery, but there are distinguishable trends which have affected all of them in some degree. Most of these countries have achieved a remarkable recovery in production and trade. In Western Europe, for example, the output of goods and services has greatly increased and is now higher per capita than in 1938. In addition to the recovery of production for domestic consumption, there has been a gratifying reconstruction of the export trades, and the drive to direct an increasing volume of exports to dollar markets has met with a fair degree of success. On the demand side, dollar goods have met increased competition from other sources through the improved supply position in Europe and elsewhere. The devaluation of most of the sterling area and European currencies in September 1949 assisted both in the development of export trade to North America and in restraining demand for dollar goods. The countries employing restrictions have, in general, rebuilt the volume of their exports to the prewar level; their dependence upon imports from hard currency areas has been reduced. The United States surplus on goods and services account with the Latin American republics fell from some \$2035 million in 1947 to \$271 million in 1950 and with Europe and its dependencies from \$6040 million to \$1365 million in the same years.

28. The substantial increase in production in these years, especially in the industrial field, greatly strengthened the world market for raw materials and primary products, and a change had been discernible for some time in the terms of trade between the industrial and primary producing countries. Since the middle of 1950 the war in Korea and the purchase of raw materials for strategic, commercial and industrial stockpiles have further advanced this trend, affecting the trade and financial situation of many countries. During this period there was a tendency for most prices - raw materials, industrial products and capital equipment - to rise. However the more rapidly rising prices of certain primary products inflated the value of exports of the producing countries concerned and had the effect of improving their current account position; this trend has not been consistent for all primary products

and there has been in a few cases a significant recession from peak price levels.

29. An important consequence of these developments was a shift of gold reserves. Whereas in the two years 1947 and 1948 the gold holdings of the United States increased by \$3692 million, in 1949 there was little change and in 1950 they fell by \$1744 million, this fall continued during the first months of 1951, and then tended to level off. The gold sold by the United States, as well as newly-mined gold, was widely distributed among European, Western Hemisphere and other countries.

30. However, this Report does not intend to express a judgment as to whether this trend is permanent in character, particularly in view of the uncertainties of the present world situation and consequently as to how far the countries producing primary commodities, including under-developed countries, some of which have been considerably handicapped by the growing scarcity of capital goods, can be said to have achieved external financial stability. Experience indicates that primary commodities have been more subject than industrial products to extensive price fluctuations. Furthermore, the position of certain countries producing primary commodities is affected by the existence of maximum prices for their exports.

31. Another aspect of the repercussions of defence programmes on trade policy is the limitation of exports of raw materials. The prohibition and licensing of exports for strategic reasons and to conserve supplies of scarce commodities is becoming more prevalent; this, combined with the increased expenditure on imports, reflects the greater importance attached to securing commodity supplies.

(1) The United States Balance of Payments

32. At the end of hostilities in 1945, the productive capacity of the United States was unimpaired, and its reconversion to civilian production proceeded rapidly. Physical destruction in some countries and economic disruption in others operated to magnify considerably the world demand for goods from the United States. United States exports were at record levels, reaching their peak in 1947. For many countries, the availability of means of payment for United States goods overshadowed all other payments problems. At the very time of the peak demand for goods, which were then principally available from the United States, dollar earnings were at a low level because of a variety of factors, including diminished investment income, impaired capacity to produce and increased domestic demand for exportable goods, and impaired facilities for services which customarily yielded invisible income. In addition, a number of important countries emerged from the war with reduced

reserves. The United States export surplus of goods and services amounting to \$37.6 billion from July 1945 to the end of 1950, was financed in part by transfers of reserves, but principally by United States Government loans and grants.

33. However, the year-by-year record of the United States balance of payments shows the progress which has been made during recent years in its payments relationships with the rest of the world. Imports have risen steadily since 1946 (except for a brief minor recession in 1949) and exports have dropped steadily since 1947. The value of United States imports in several months in 1950 and early 1951 actually exceeded the value of exports. A steady outward capital flow has been maintained; extraordinary governmental assistance has tapered off since 1947; and the gold movement was largely arrested in 1949 and sharply reversed in 1950. This improved relationship has continued in 1951, although statistics of actual exports tend to underestimate the magnitude of the underlying demand for United States goods while their importation is still being restricted by many countries.

(ii) The Sterling Area

34. Although production and export trade of the sterling area countries advanced encouragingly, the gold and dollar reserves held in the United Kingdom fell in the three years, 1947-49, from \$2696 million to \$1688 million. In July of 1949 the Commonwealth countries of the sterling area, other than South Africa, agreed to endeavour to reduce their demands on the central reserves in respect of dollar imports by 25% below the level of 1948 in order to halt the severe drain on those reserves.

35. This intensification of restrictions required consultations with the CONTRACTING PARTIES under the provisions of Article XII. In accordance with Article XV, the CONTRACTING PARTIES also consulted with the International Monetary Fund. These consultations were concluded in November 1950. The results of the intensification were examined in the light of subsequent developments. By the end of September 1950 the gold and dollar reserves had recovered from \$1425 million a year earlier to \$2756 million. In the course of the consultations, several contracting parties expressed the view that the time had come for Australia, Ceylon, New Zealand, Southern Rhodesia and the United Kingdom to begin the progressive relaxation of their respective restrictions on imports from the dollar area, and the Fund expressed the opinion that such relaxation would be feasible but should be undertaken with due caution having regard to prevailing uncertainties. The five governments, however, were of the opinion that, although the gold and dollar reserves of

the sterling area had improved, several adverse factors, of which the full effects would not be felt until 1951, rendered it unwise for them to undertake at that time any commitments for a relaxation of their restrictions. As for India and Pakistan, it was generally agreed that no further relaxation of the general level of their restrictions was appropriate at that time.

36. The Union of South Africa also experienced payment difficulties. From 1947 to 1949 the gold held by the South African Reserve Bank declined from \$939 million to \$128 million. Since the war-time control of imports had been abolished, new restrictions were introduced. Under Article XII;4(a) a contracting party instituting restrictions is required to consult with the CONTRACTING PARTIES as to the nature of its balance-of-payment difficulties, alternative corrective measures, and the effect of such measures on the economies of other contracting parties. The consultations with South Africa were held in 1949 when the measures and the methods of restriction were fully discussed with the CONTRACTING PARTIES. The South African Government later informed the CONTRACTING PARTIES that the suggestions made in the course of these consultations had been taken into account in the development of its import policy.

37. Since the middle of 1950 there has been a substantial relaxation of the restrictions by a number of the sterling group; some products have been added to the free lists, while elsewhere the relaxation has been introduced by means of a more lenient administration of the licensing requirements. In the light of the events of 1950, which resulted in increased earnings in dollars, it was possible to modify the reduction of imports introduced the previous year. A few examples will illustrate the relaxations which took place. The United Kingdom substantially increased its expenditure on dollar imports and made further additions to the list of products imported under open licences from soft-currency sources. Australia increased its imports from all sources and extended the list of "easy-currency" countries from which goods might be purchased without licence; New Zealand increased its purchases from the hard-currency area and at the same time abolished import control entirely on most commodities from an extended number of soft-currency countries; India provided for a higher level of imports and extended their list of soft-currency countries; approximately 75% of the permits issued by South Africa for 1951 are valid for importation from any country; Southern Rhodesia removed all restrictions on imports from a number of countries; and Ceylon announced that

from July 1951 there would be no restriction of imports except for a very few articles when imported from hard-currency countries.

38. The tendency to be more lenient in the application of restrictions on purchases from the dollar area continued in the early part of 1951, although as the year progressed the balance-of-payment situation grew less favourable. The gold and dollar reserves continued to increase in the first half of 1951, and by the end of June had reached \$3867 million. In the third quarter, however, the sterling area had a gold and dollar deficit of \$638 million and the reserves declined by \$598 million to \$3269 million.

(iii) Western Europe

39. The trade of the countries of Western Europe, both among themselves and with countries outside Europe, has improved fairly steadily in the six years since the war, and steps have been taken to ease the restrictions on imports, particularly from soft-currency countries. Many of the import quotas allocated in bilateral trade agreements provide for an increased volume of trade, but import programmes for 1951 have not generally envisaged an increase in hard-currency purchases. Relaxation has been introduced administratively in the treatment of applications for licences and in the allocation of foreign exchange for overseas purchases but its extent is difficult to measure.

40. The most important development in trade policy is the liberalisation programme of the Organization for European Economic Cooperation, which was mentioned earlier as one of the group arrangements involving discrimination in the application of restrictions. In November 1949, quantitative restrictions were removed from 50% of intra-European trade on private account, on the basis of 1948 trade statistics, for each of the three commodity groups - food and feeding stuffs, raw materials and manufactured goods. With the establishment of the European Payments Union in the summer of 1950 this was extended to 60% in October, and the target was raised to 75% in February 1951. In May, 1951, agreement was reached upon the consolidation of a list of liberalized products accounting for 60% of intra-European private trade. At the present time four of the contracting parties applying restrictions under Article XII - France, Italy, Sweden and the United Kingdom - have liberalized at least 75% of their private trade with other members of the Organization and have consolidated 60%. Other members have progressed in varying degrees towards the achievement of these goals.

The most recent development in the Organization for European Economic Cooperation programme was the acceptance in August 1951 of a short "common list" of products, principally textiles and textile machinery, from which quantitative restrictions were to be removed by all countries except those which have been exempted from applying the liberalization measures; if the restrictions are not removed their retention is to be justified to the Organization.

41. The liberalization programme was facilitated by the development of arrangements for the clearing of accounts and for the transferability of the currencies of the participating countries within the group through the mechanism of the European Payments Union.

42. In the first stage of liberalization most members of the Organization excluded the members which they regarded as hard-currency countries from the benefits of the removal of restrictions, but the establishment of the European Payments Union in July 1950 permitted the extension of liberalization to these countries. Further, they have extended the liberalization to imports from the dependent territories of other members; and some have extended it, in whole or in part, to certain non-member countries, as follows:

		Countries and currency areas, other than the territories of OEEC members, to which the liberalization has been extended
Denmark	-	Sterling Area and Indonesia
Netherlands	-	Indonesia
Norway	-	Sterling Area, Finland, Indonesia, Israel and Spain (including Dependencies)
Sweden	-	Sterling Area, Finland and Indonesia
United Kingdom	-	[Information to be supplied]

(iv) Latin America

43. During the war most of the countries of Latin America had a favourable trade balance. Earnings of foreign exchange from the export of primary products were higher than usual, and the trade surplus was further enlarged by the involuntary reduction of imports caused by the world-wide scarcity of consumer goods. By 1946 this trend was reversed. With the opening up of

sources of supply the pent-up demand for consumer goods brought a substantial increase of imports which led to a decline in the monetary reserves, which reached a low point in 1949, and to the increased use of restrictions. Some of the Latin American countries attempted, however, to maintain their export trade with European countries applying restrictions by means of bilateral agreements. Another aspect of the discriminatory application of restrictions was related to the efforts of some of these countries to avoid the accumulation of inconvertible currencies. In 1949 Chile experienced new difficulties through the fall in the price of copper and the Government decided to intensify its restrictions on dollar imports. The consultations with the CONTRACTING PARTIES, under the provisions of Article XII:4(b), were concluded in November 1950, when it was generally agreed that it would not be appropriate for Chile to undertake at that time any further relaxation of the general level of its restrictions on imports from the dollar area.

44. The more recent improvement in the balance of current payments and the strengthened monetary reserves have enabled some of the contracting parties in Latin America which maintain import restrictions to relax them. In the case of Peru all remaining balance-of-payment import restrictions were removed in January 1951.

4. INCIDENTAL TRADE EFFECTS OF RESTRICTIONS

45. Import restrictions have generally been applied in such a way as to curtail imports of "less-essential" goods while the process of post-war recovery and development was being carried forward. Although total imports have been kept at a high level, the selections made by importing countries in classifying goods as "essential" and "non-essential" have affected the export markets for certain commodities far more severely than appears from the total figures of trade.

46. Under Article XII governments are required, in the application of their balance-of-payment restrictions, to avoid unnecessary damage to the commercial and economic interests of other contracting parties and not to prevent unreasonably the importation of goods in minimum commercial quantities if regular channels of trade would otherwise be impaired. Several contracting parties have taken special steps in an endeavour to fulfil these undertakings, in some instances by admitting small quantities of imports which would not otherwise have been licensed and in others by granting foreign exchange for imports in excess of the fixed quotas or for products not under quota.

47. An important example of this type of arrangement is the system of token imports used by certain contracting parties whereby they permit the importation of fixed quantities of certain commodities which would otherwise be prohibited, so that the market for them will not be entirely lost as a consequence of the restrictions. The United Kingdom plan benefits principally the United States and Canadian manufacturers of branded goods which had wide sale in the United Kingdom before the war. For 1951 the annual quota was advanced from 20 to 40% by value of each manufacturer's average annual trade in 1936-38.

48. Another arrangement which permits the importation of small quantities of goods which would not otherwise be authorized is that adopted by the French and Netherlands Governments which in some circumstances allow exporters to retain a small proportion of the proceeds of exports to certain hard-currency countries which can be used for imports that would not otherwise be authorized or for other purposes.

49. Although contracting parties have taken measures to mitigate the effects of their restrictions on the trade of others, it must be recognized that import controls are bound to affect the normal conduct of trade. Restriction of imports, whatever its purpose, tends to limit competition and to that extent to protect the domestic production of competing products and to raise prices. In so far as foreign competition is absent an important incentive to domestic producers of like products to lower their prices is impaired and the expansion of domestic production of the restricted goods through the participation of extra-marginal producers tends to be encouraged. The longer the restrictions are in force the greater is the likelihood that the changes they cause in the structure of production and prices, both in the exporting and the importing country, will harden and crystallize.

50. It is not only the restricted supply of particular imports which protects the domestic industry concerned. Formalities and delays involved in complying with the import control procedures may add to the cost of importation and so constitute some further element of protection.

51. Exporters and importers may be discouraged from setting up marketing facilities in countries where, through frequent changes in import controls, it is difficult to maintain continuity of sales. And there is a tendency for exports to be attracted by the higher prices often available in soft-currency markets to the detriment of the earnings of hard currencies.

52. The problem of protection was discussed by the CONTRACTING PARTIES at their Fourth Session in March 1950, and methods by which governments could minimise the incidental protective effects were examined. It was found that several contracting parties had taken steps to discourage the establishment and growth of vested interests which might press for the maintenance of the restrictions beyond the period when restrictive measures to safeguard the balance of payments could be justified in terms of the Agreement. The CONTRACTING PARTIES concluded that the governments applying restrictions should endeavour, in their own interests and in the spirit of the Agreement, to prepare domestic industries for the time when import restrictions would be relaxed and, finally, removed. They recommended in particular the following methods whereby the "undesirable incidental protective effects" could be minimised:

- "(a) Avoiding encouragement of investment in enterprises which could not survive without this type of protection beyond the period in which quantitative restrictions may be legitimately maintained;
- "(b) Finding frequent opportunities to impress upon producers who are protected by balance-of-payment restrictions the fact that these restrictions are not permanent and will not be maintained beyond the period of balance-of-payment difficulties;
- "(c) Administering balance-of-payment restrictions on a flexible basis and adjusting them to changing circumstances, thereby impressing upon the protected industries the impermanent character of the protection afforded by the restrictions;
- "(d) Allowing the importation of "token" amounts of products, which otherwise would be excluded on balance-of-payment grounds, in order to expose domestic producers of like commodities to at least some foreign competition and to keep such producers constantly aware of the need ultimately to be prepared to meet foreign competition;
- "(e) Avoiding, as far as balance-of-payment and technical considerations permit, the allocation of quotas among supplying countries in favour of general licences unrestricted in amount or unallocated quotas applying non-discriminatorily to as many countries as possible; and
- "(f) Avoiding as far as possible narrow classifications and restrictive definitions of products eligible to enter under quotas."

53. Several governments have taken steps to impress upon their producers that the protection which they have enjoyed incidentally as a result of the quantitative restrictions imposed for financial reasons is of a temporary nature. This is a problem which requires constant vigilance by all the countries concerned.

5. CONSULTATIONS ON THE CONTINUANCE OF DISCRIMINATION

54. The use of discriminatory import restrictions under the General Agreement, to safeguard the external financial position and balance of payments, is closely associated with the provision in Article XIV of the Articles of Agreement of the International Monetary Fund. Under that article members may, in certain circumstances, maintain restrictions on payments and transfers for current international transactions but only so long as they are availing themselves of the post-war transitional period arrangements of the Fund Articles. Moreover, the Fund's Articles and the General Agreement contain related provisions governing the removal of these restrictive measures. Article XIV of the Fund's Articles of Agreement 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 annually as to their further retention." The five-year period ends in March 1952.

55. Article XIV:1 (b) of the General Agreement provides that a contracting party may, in the use of import restrictions, deviate from the rule of non-discrimination in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that country may apply under Article XIV of the Fund. Thus a link exists between exchange restrictions and discrimination in import restrictions. Continuance of discrimination in the application of import restrictions under Article XIV:1 (b) of the General Agreement by a contracting party which is a member of the Fund depends upon determinations by the Fund as to the action which is permitted to that member in exchange matters under Article XIV of the Articles of Agreement of the International Monetary Fund.

56. However, there is an area of permissible discrimination less closely tied to exchange restrictions. Contracting parties governed by Article XIV, paragraphs 1(b) and 1(c) which, on March 1, 1948, maintained discriminatory import restrictions not parallel to transitional period exchange restrictions are permitted to maintain such restrictions and adapt them to changing circumstances. Permissible discrimination under Annex J is defined without reference to the Fund Articles. Contracting parties discriminating under paragraph 1(c)

or under Annex J are required to consult annually with the CONTRACTING PARTIES who may recommend the termination of any particular deviation from the provisions of Article XIII or the general abandonment of deviations. Thus the whole field of discriminatory import restrictions maintained by any contracting party under paragraph 1 of Article XIV (including Annex J) will, commencing with March 1952, either come under annual consultation with the CONTRACTING PARTIES, or, alternatively, will be affected by annual consultations between the Fund and its members in the related field of exchange restrictions. It should also be noted that no discrimination under paragraph 1(b) or 1(c) of Article XIV, or under Annex J, is permissible after the end of a contracting party's transitional period under Article XIV of the Fund Agreement.

57. Contracting parties have reported that the discriminatory application of their restrictions falls under the provisions of the Agreement as follows:

- Article XIV, paragraph 1(b) - France
- Article XIV, paragraphs 1(b) and 1(c) - Australia,
Denmark, Finland, Greece, India, Italy, Netherlands,
Norway, Pakistan, Sweden and Turkey.
- Article XIV, paragraph 1(c) - Germany and New Zealand.
- Annex J - Ceylon, Southern Rhodesia, South Africa and
the United Kingdom.

The Governments of Indonesia and the Philippines have stated that their restrictions are non-discriminatory, and the Government of Czechoslovakia has stated that all countries are treated equally in accordance with Articles XIII and XVII.

6. CONCLUSIONS 7

58. In summarizing and concluding this review of the restrictions maintained by contracting parties, it will be well to recall the basic objectives which governments set themselves when acceding to the General Agreement.

59. Realizing the profound disadvantages which arise from the fragmentation of world trade and the limitations thereby placed upon the possibilities of trade expansion, the contracting parties have set as their goal the restoration of multilateral trade. This aim is recognized in the statement of objectives in the preamble to the Agreement in which the contracting parties affirm their desire to enter into reciprocal and mutually advantageous arrangements directed to the reduction of trade barriers and the elimination of discriminatory treatment in international commerce. This aim is implicit also in the provision of Article XI calling for the general elimination of quantitative restrictions. In assuming the task of reconstructing the multilateral pattern of trade, the contracting parties were conscious that progress in this field is related to progress towards currency convertibility which is a major purpose of the International Monetary Fund. To promote the objective of multilateral trade the contracting parties have undertaken certain obligations, in particular that import restriction on balance-of-payment grounds may be maintained only under carefully defined conditions, related to the state of monetary reserves. There is a wide privilege to apply such restrictions in a discriminatory fashion during the postwar transitional period, but this privilege ends with the end of that period for the country concerned.

60. Since 1945, and particularly since the Agreement came into operation in 1948, economic recovery and development have proceeded steadily. Production in many of the countries which were the scene of conflict has now surpassed the pre-war levels. In this advance the financial aid rendered by the United States and others has played an important part. The post-war recovery and expansion of production, coupled with the widespread re-adjustment of exchange rates in 1949, have gone a long way to bringing demand for foreign requirements into closer relationship with available means of payment in most deficit countries. While many factors, domestic and international, affect a country's inflationary gap, its success in keeping domestic demand, which in many countries is now held in check by restrictive measures, in a sound relationship with its available means of international payments is a central factor in its ability to relax or dispense with direct controls of international trade.

61. When the Agreement was drafted in 1947 it was expected that five years of economic recovery would bring a general relaxation of trade controls and that this review would, therefore, be limited to individual instances of continuing restriction. In fact, however, an important part of the trade of most countries remains subject to governmental restrictions based on balance-of-payment grounds. Several governments, in particular those of under-developed countries, have pointed out that the pressure on their reserves arising from a high level of demand for imports, including essential industrial materials and equipment, may require the maintenance of priorities for the importation of certain classes of goods.

62. By the middle of 1950, many countries which were in acute difficulties in 1947 had advanced to the point where there seemed a fair prospect that they would be able before long to pay their way, to rebuild their monetary reserves, and to progress towards the ending of discrimination and the removal of restrictions. After the middle of 1950, there was - as the result of an improved balance of payments and reserve position, as well as the desire to acquire supplies - a tendency in many countries to increase the amount of their imports. In some cases, this development emerged from announced changes in regulations; in others, the increased imports resulted from administrative action, without change in regulations. This trend towards an increase in imports continued into 1951.

63. Concurrently, there have been new factors arising from the international situation. Principal among these have been the increased demand and higher prices for certain raw materials and other essential supplies due partly to speculative buying, private inventory accumulation and governmental stockpiling, the increasing programmes of rearmament and the threat of new inflationary pressures. Since many of these factors affect different countries in varying degrees and even in diverse directions, it is difficult to make a generalisation applicable to all, or nearly all, of the contracting parties. Generally speaking, however, the widespread improvement in balances of payments and reserve positions has continued in 1951, although some important countries are currently experiencing difficulties.¹

64. It is clearly the responsibility of each contracting party, both those in balance-of-payment difficulties and the surplus countries, to continue in the light of their individual circumstances to seek to remove the underlying causes of disequilibrium. In framing both internal and external economic policies, governments should take account of the possible repercussions of such policies on the economic interests of other countries and the needs of the international situation.

65. In concluding this review, the CONTRACTING PARTIES note that the governments which are applying import restrictions under Article XII are conscious that the obligation which each has assumed under the Agreement involves the continuous review by governments of their restrictive and discriminatory practices and the removal of any measure which is not strictly justifiable on balance-of-payment grounds. It is evident that countries cannot all move at the same pace, but a number, particularly those whose trade and payments position is improving as a result of recent developments, should be able to take definite steps towards the further relaxation of restrictions and reduction of discrimination.

¹ This was written during October 1951.

