

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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GERMAN IMPORT RESTRICTIONS

Statement by the Representative of the Federal Republic of Germany at the Intersessional Committee Meeting on 14 April 1958¹

At the Twelfth Session several contracting parties held the opinion that ~~the~~ Federal Republic should review its trade policy with the aim of removing all remaining imports restrictions. It was suggested that the Federal Republic should, with respect to those restrictions which it might not yet be able to remove, have recourse to agreed GATT procedures in order to bring its import policy into harmony with the rules of the General Agreement. Finally, the Federal Republic was requested to submit a legal justification of its standpoint according to which the import restrictions applied under the Marketing Laws are covered by the reservation contained in the Torquay Protocol and in the Decision of 7 March 1955. Several contracting parties expressed the desire that the Federal Republic should communicate its comments on the maintenance of the restrictions by 28 February 1958.

The Federal Republic notified its comments on these questions on 28 February 1958 by notes addressed to diplomatic representatives of the United States, the United Kingdom, Canada and Australia. The secretariat of GATT has informed other contracting parties of the contents of these notes (L/799). In the above-mentioned communication the Federal Republic announced that it would submit a legal justification of its standpoint regarding the Marketing Laws to the Intersessional Committee. Moreover, the Federal Republic communicated that, insofar as the remaining import restrictions were concerned, it was not yet in a position to state if and when it would be able to remove them.

The legal justification of the standpoint adopted by the Federal Republic regarding the Marketing Laws is set out in document L/807. This shows the standpoint of the Federal Republic, according to which the German Marketing Laws are in fact part of the national legislation mentioned in the Torquay Protocol. The Federal Republic holds the view, which is shared by several other contracting parties, that the pertinent provisions of the General Agreement do not require these laws to have a mandatory character. Moreover, as regards the disputed question of the requirement for a mandatory character of such laws, it may be pointed out that in any case the Marketing Laws do have such a mandatory character. The exposé submitted to the CONTRACTING PARTIES also deals with this question and contains a legal justification of the German standpoint. In fact, the economic policy incumbent on the Federal Government in the food and agricultural fields under these Laws, could not be carried through if it were not simultaneously connected with the application of import controls or import restrictions.

¹ See IC/SR.38

As soon as the liberalization measures announced by the Federal Republic at the Twelfth Session will have been carried through, the extent of import restrictions still maintained by the Federal Republic will correspond to about 18 per cent of 1956 German imports. Of this, 11 per cent concern commodities covered by the Marketing Laws. Accordingly, there is only about 7 per cent with regard to which the application of import restrictions may be in dispute from the point of view of the obligations of the Federal Republic under the General Agreement.

Of these remaining import restrictions which may be the subject of discussion about 2 per cent relate to industrial goods. The CONTRACTING PARTIES know that this 2 per cent comprises a small number of goods imported from two or three countries. The necessity to maintain controls on these imports is connected with the particular conditions of production of and trade in these goods on the world markets as well as with the particular situation which has arisen within GATT in respect of the origin of such goods in connexion with Article XXXIV of GATT. The CONTRACTING PARTIES have already recognized that this is a serious problem and that a solution to the present situation, where divergent rights and obligations exist for two groups of contracting parties must be found as soon as possible. As far as the Federal Republic of Germany is concerned, a solution to this problem could be found principally by bilateral arrangements between the Federal Republic and the exporting countries concerned. In this connexion account should be taken of the fact that the Federal Republic's membership in the European Economic Community make it necessary to find a solution which, if possible, should be applicable to the whole area of the Community.

There still remain import restrictions comprising 5 per cent of German imports. They concern products in the fields of agriculture and of the foodstuffs industry. As the German delegation stated at the Twelfth Session, a large part of these products is of importance only to intra-European trade. Again during the Twelfth Session and in its note (L/799) the Federal Government stated that, much to its regret, it was not able at the present time to clarify whether and to which extent the restrictions could be removed in the near future. These restrictions, though applying only to a relatively small part of German imports, affect above all those economic sectors which are of great importance in connexion with the economic and social structure of the Federal Republic.

On this occasion the Federal Government wishes once again to point out the particular situation of its economy within Europe. Considering the structure of German trade relations with the other European countries, it believes that the Federal Republic bears a considerable responsibility for the maintenance of sound and stable economic conditions in Europe, especially as far as the structure of the trade of its European trade partners is concerned. The favourable overall situation of the German balance of payments which, after the last decision of the IMF, gave rise to the issue under consideration is mainly based on a surplus in the trade with the

European Payments Union area. These surpluses are so important and have, at times, been so alarming that the existence of the EPU and, thus, the stability and structure of the trade of the members of the Union seemed to be in danger. The liberalization measures announced by the Federal Government at the Twelfth Session are likely to increase imports from the dollar area also in the future and to contribute to aggravate the surplus position within the EPU. The CONTRACTING PARTIES will understand that the Federal Government entertains serious doubts as to the appropriateness of liberalization measures which would even aggravate this strained situation and endanger the still existing stability of European trade. Finally, the CONTRACTING PARTIES will also recognize that the stability of the European economy, which is, to a large extent, based on co-operation between the OEEC countries and between the Member States of the Community, is of great importance to international trade. The efforts to avoid the spread of economic crises in Europe, which have been successful so far, have also been of considerable value to the trade of all non-European contracting parties.

In conclusion, it may be pointed out that the measures which have to be carried through in the sector under discussion here in order to implement the Treaty of Rome as well as similar measures which may become necessary under the envisaged Free Trade Area convention, make it extremely difficult at present to take decisions in the field of import policy. The CONTRACTING PARTIES are still examining the Treaty of Rome and numerous legal problems are still under discussion. It should, therefore, be understandable that it is hardly possible for the Federal Republic to take decisions at present. Therefore, the Federal Government wishes to suggest that the CONTRACTING PARTIES consider its import policy, for the time being, as a particular case and consequently defer their final judgement. On this occasion, it also wishes to point out that its attitude should not be understood to prejudice the rights and obligations which may arise for it from the establishment of a customs union under the Treaty of Rome and in connexion with the relevant provisions of Article XXIV - especially paragraphs 5 and 8.

The Federal Government is conscious of the fact that some contracting parties are of the opinion that it should apply for a waiver for the import restrictions which it still maintains. The Federal Government does not deem it advisable to take this course of action, for it believes that it should apply for a waiver for maintaining import restrictions only if it were able to see whether and to which extent the restrictions could be removed in a near future. This is not yet the case at present. It further holds the view that it would certainly not be in the interest of the General Agreement if a further exception to the application of certain of its Articles were created by granting a new waiver of the kind referred to. This might lead to a further postponement of the review of the General Agreement in the field of trade in agricultural products, which numerous contracting parties consider to be necessary.

The Federal Government has declared that it is prepared to enter into consultations with contracting parties which believe that their interests have been impaired. In doing so, it wishes to point out that it submits to the rules and decisions of the CONTRACTING PARTIES as provided for such cases in the General Agreement. The Federal Government stresses that for its part it is desirous to maintain its multilateral co-operation under the General Agreement and hopes that the CONTRACTING PARTIES for their part will have a certain understanding of the difficult problems with which it is faced at present. The German Government believes that it can expect such understanding particularly because only a relatively small part of German imports is still subject to controls which are not in harmony with the rules of the General Agreement. Moreover, the Federal Government supposes that the CONTRACTING PARTIES will take into account that its trade policy, as a whole, and also the application of the still existing import restrictions have at any rate resulted in extending the trade with almost all contracting parties and in increasing imports from all these countries. Also in other fields, in particular in the fields of currency policy, financial policy and credit policy, the Federal Republic has not evaded international co-operation, but largely participated in all common measures serving the expansion of international trade. Considering this situation, the Federal Government believes that it has effectively and considerably contributed to the achievement of the main objectives of the General Agreement.