

GENERAL AGREEMENT ON TARIFFS AND TRADE

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WORKING PARTY ON BALANCE-OF-PAYMENT IMPORT RESTRICTIONS

First Draft for the Third Report on the Discriminatory Application of Import Restrictions (Article XIV, 1(g))

At the Sixth Session in September-October 1951, the CONTRACTING PARTIES made arrangements for the preparation of their third annual report on the discriminatory application of import restrictions applied under Article XII. Each contracting party taking action under paragraph 1(b) or 1(c) of Article XIV or under Annex J was asked to submit a statement describing any changes which had taken place, subsequent to the submission of its reply to the 1951 questionnaire, in import control regulations or administrative practices affecting the discriminatory application of Article XII import restrictions. The position of the thirty-four contracting parties stands as follows:

- 20 contracting parties have responded to this request. Among these 17 governments (Australia, Austria, Ceylon, Denmark, Finland, France, Germany, Greece, India, Italy, Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, Union of South Africa and United Kingdom) have submitted statements bringing up-to-date their 1951 replies to the questionnaire; the other three (Brazil, Sweden and Turkey) have advised that there are no changes to report since the replies which they submitted in 1951 prior to the Sixth Session.
- 1 contracting party (Chile) which answered the questionnaire in 1951, describing the discriminatory application of its restrictions, has not responded to the request for an up-to-date statement in 1952.
- 2 contracting parties (Czechoslovakia and Indonesia) have reported that their restrictions are applied without deviation from the rule of non-discrimination in Article XIII.
- 9 contracting parties (Belgium, Canada, Cuba, Dominican Republic, Haiti, Luxemburg, Nicaragua, Peru and United States) stated in 1951 that they were not taking action under Article XII.

2 contracting parties (Burma and Liberia) did not reply to the balance-of-payment questionnaire in either 1950 or 1951 and have not informed the CONTRACTING PARTIES of their present position in relation to action under Article XII.

The statements received from the twenty governments enumerated in the first of the foregoing sub-paragraphs have been examined and the attached draft has been prepared to assist the working party in preparing their draft report for submission to the CONTRACTING PARTIES.

The CONTRACTING PARTIES may also wish to report on their consultations on the continuance of discriminatory policies which, in accordance with Article XIV:1(g) are taking place for the first time in 1952 with those contracting parties which continue to refer to the provisions of Annex J and with those which maintain discriminatory measures falling under paragraph 1 (c) of Article XIV. If so, it may be found convenient to include the report on the consultations within the broader statement on the discriminatory application of restrictions. With this possibility in mind, the attached draft incorporates a note on the background to the consultations; the working party may wish to add a note on the conduct of the consultations and a report on the results.

Part II of the draft, the descriptive notes on discriminatory action, are being completed by the secretariat in discussion with the delegations concerned and will be submitted to the working party.

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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Restrictions maintained by the following Governments:

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
United Kingdom

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INTRODUCTION

1. The maintenance of import restrictions by contracting parties in order to safeguard their balances of payments and monetary reserves is permitted in specific circumstances under Article XII of the General Agreement on Tariffs and Trade. During the so-called postwar transitional period, the governments which have adhered to the General Agreement have not been required to observe fully, upon becoming contracting parties, the rule of Article XIII for the non-discriminatory administration of such quantitative restrictions. But contracting parties have undertaken that the discriminatory policies applied under Article XIV in the use of such restrictions will be designed to promote the maximum development of multilateral trade 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 still being taken by contracting parties under the provisions for the use of discrimination. At the time of writing this third report¹ 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

¹ 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.

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.

3. The Governments of Czechoslovakia and Indonesia also apply balance-of-payment restrictions under Article XII but have advised 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 upon the statements received from the governments exercising 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, as distinct from the financial, aspects of 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 and were verified by the delegations attending the Seventh Session of the CONTRACTING PARTIES.

PART ONE

I. DISCRIMINATION IN 1952

6. At their Sixth Session, in October 1951, the CONTRACTING PARTIES reviewed the import restrictions maintained as safeguards for external gold and currency reserves by 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. Now, however, a year later, the CONTRACTING PARTIES must record that the improvement of 1950 and 1951 has not been maintained by all countries. Balance-of-payment difficulties have reappeared and monetary reserves of many countries have again been reduced. Consequently, restrictions have been tightened and governments are again exercising a strict scrutiny of expenditure in order to match their commitments to available exchange.

7. The fundamental need for the discriminatory policy was described in the first two reports. That inability to acquire the full amounts of the specific currencies which importers would desire to spend - owing to inconvertibility of many currencies - has persisted through 1952. Thus, basically, the policy of discrimination among sources of supply and the principles upon which the quantitative trade controls are administered have continued without alteration. The application of the policy, however, has been somewhat altered during the past twelve months following the emergence in many countries of an overall payments disequilibrium. It was the requirement of settlement in gold for the large deficits which appeared in the accounts of the European Payments Union which rendered European currencies distinctly hard for the deficit countries in the EPU.

8. The most marked change of this past year has been the intensification of restrictions by soft-currency countries against one another. The

emergence of new balance-of-payment deficits on current account was less centred than at times in the past, upon a shortage of dollars. For many of the countries whose discriminatory practices are being examined, some of the erstwhile soft currencies took on a new aspect of hardness, and hence their intensified restrictions of the past year fell principally upon other countries of the soft area, thus incidentally reducing the degree of discrimination between the two. In our examination of these developments, we shall find that some countries which had not required licences for imports from certain sources, have now extended their controls to cut down those imports as well. And others which had relaxed the restrictions vis-à-vis various countries of supply have now reversed that policy and have tightened those controls though not to a degree comparable to the restriction on goods which have to be paid for in dollars.

9. The most notable changes of this character in the application of the discrimination policy, affect the relations of the countries participating in the two group arrangements described in the earlier reports. There had been a tendency, for some years, for the degree of discrimination exercised by most countries to be strongly influenced by the existence of group arrangements to which they were parties. Of the twenty-one contracting parties practising discrimination, eleven (Austria, Denmark, France, Germany, Greece, Italy, Netherlands, Norway, Sweden, Turkey and United Kingdom), are members of the Organisation for European Economic Co-operation, while seven others in addition to the United Kingdom (Australia, Ceylon, India, New Zealand, Pakistan, Southern Rhodesia and South Africa), belong to the sterling area and participate, except for South Africa, in the sterling area pool of gold and convertible currencies. Within each of these groups the balancing of intra-area payments on a multilateral basis, and in the sterling area the absence of restriction on current payments and the comparative freedom of capital investment, had fostered a freedom of trade which stood in sharp contrast to the strict controls exercised over hard-currency purchases. In the OEEC group the relaxation of restrictions came with the successive steps of the liberalization programme, while among most of the participants in the sterling area, the tradition of complete freedom from licensing requirements had never been broken. Moreover, there were many instances of the relaxations and exemp-

tions being extended by members of one group to members of the other, thus further accentuating the discrimination between trade conducted in soft currencies and that requiring payment in the hard monies.

10. A new trend in the application of discrimination appeared towards the end of 1951, with the announcement by the United Kingdom Government of the reimposition of controls on imports from Western Europe. The measures introduced then and in the first half of 1952 terminated many of the open licences, under which a great part of the private purchases from soft-currency countries had been imported, and substituted licensing arrangements mostly of the global-quota type. Thus, the United Kingdom drew a new distinction between sterling and non-sterling countries. This action was followed shortly by the suspension of OEEC liberalisation by the Government of France; licensing requirements were re-established for all imports from the area of the European Payments Union, and quarterly import programmes are now drawn up in relation to financial means. Some members of the Organization have been able to maintain in 1952, and even to extend, their liberalization of trade with other EPU countries. Italy and Sweden have maintained, while Germany, Netherlands and Norway have achieved, the 75 per cent liberalization of imports on private account from other OEEC countries; Italy has actually carried the process of liberalization even further, having suspended nearly all quantitative restrictions on imports from EPU and sterling area countries. Meanwhile, a number of the European countries, including the United Kingdom, have effected a further limitation of dollar expenditure in order to offset a decline in dollar earnings.

11. Within the sterling area, also, the action of the United Kingdom was followed by that of other countries in an endeavour each to improve the position in its own accounts and to stop the serious decline in the area's reserves. The most drastic steps taken were those by the Australian Government, which reimposed the control abandoned in 1950, on the imports from sterling area and "easy-currency" countries, and introduced for the first time a licensing requirement for imports from the United Kingdom. The non-dollar control is based on the global quota principle and licences are valid for imports from any source other than the dollar area and Japan.

A third measure, taken by the Government of Australia, was the recall of all outstanding dollar licences for reconsideration; some of these were cancelled and the present programme for dollar imports envisaged a lower rate of import than a year ago. New Zealand also recalled outstanding dollar licences, disallowing sufficient of them to keep payments at about the 1951 level, and since March 1952, has been exercising some control over other imports through the sale of exchange to importers and through the licensing of all imports of motor vehicles.

12. Other sterling area countries have also applied new measures of restriction in 1952 with varying effect upon their trade with the various currency areas. South Africa and Southern Rhodesia aim at bringing about further reductions in dollar expenditure and, in addition, the latter has reimposed control on imports from other non-sterling sources. The measures taken by Ceylon, Pakistan and the overseas dependencies of the United Kingdom, also affect mainly their dollar expenditures, but will have some impact on their trade with EPU and other non-sterling countries.

13. The two contracting parties in Latin-America which apply balance-of-payment restrictions - Brazil and Chile - have experienced a reduction of earnings of foreign currencies in 1952 which has necessitated a tightening of the import control mechanism. Brazil reduced the list of articles for which licences may be granted, so as to limit importation to goods of high priority, while Chile re-imposed the licensing and quantitative control for many articles which, for a year or more, could be imported without restriction. Thus in these South American countries also, 1952 has witnessed a reversion to tighter restrictions but here there is no discernable change in the policy of discrimination hitherto practised, viz. a distinction between hard and soft currencies and the allocation of exchange and issue of licences in accordance with currency availabilities.

14. During the past year, the intensification of restrictions against the dollar area has been fairly widespread, particularly by contracting parties in the sterling area. The reduced allocations for dollar purchases have been announced by some of these governments, but the extent of further cuts by the countries of Europe and South America can often be seen only after

the event. In most areas, however, the discrimination against dollar goods has actually been reduced by virtue of the greater intensification of the restrictions against soft-currency imports. The United Kingdom, for example, has reduced the discrimination between European and dollar imports, though it has deepened that between sterling and other goods. Although Australia has introduced a stricter dollar control, the imposition of licences for imports from the United Kingdom has probably had the effect of reducing the margin of discrimination between British and American goods. The French suspension of liberalization presents a clear case of intensified restrictions, but reduced discrimination.

II. TRADE ASPECTS OF THE DISCRIMINATORY POLICY

[This section will be drafted when the Working Party has progressed further with its discussions and consultations]

III. THE CONSULTATIONS IN 1952 ON THE CONTINUANCE OF DISCRIMINATION

The Article XIV exception to the rule of non-discrimination was 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 these exceptional arrangements during the post-war transitional period.

The permission to deviate from the non-discrimination rule in the application of balance-of-payment restrictions is 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 under the provisions of paragraph 1(b), namely: Australia, Brazil, Chile, Denmark, Finland, France, Germany, Greece, India, Norway, Pakistan, Sweden and Turkey.

There are also areas of permissible discrimination wherein governments are required to consult with the CONTRACTING PARTIES who 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. Such consultations are to be annual, commencing in 1952. In the first place, under paragraph 1(c) of Article XIV, discrimination employed 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, three contracting parties initiated consultations on measures which they considered to fall within the scope of Article XIV:1(c), namely Australia, Italy and Netherlands. Secondly, there are several contracting parties which 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.

The CONTRACTING PARTIES carried out consultations with five of these eight Governments at their Seventh Session, namely Australia, Ceylon, Italy, the Netherlands and the 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. Discussions of the balance-of-payment need for the continuance of discrimination

and of measures to overcome such need were based upon these results and background material submitted by the Fund. 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.

/The drafting of this section will be completed when the consultations have been concluded/

IV* CONCLUSIONS

/This section will be drafted after discussion of its contents in the Working Party./