GENERAL AGREEMENT ON TARIFFS AND TRADE

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

## DRAFT REPORT TO THE CONTRACTING PARTIES

## Part III: Report on Procedures

(Paragraph (c) of Terms of Reference)

1. The Working Party was asked to recommend procedures for the preparation of the fourth annual report on discrimination and for the conduct of consultations in 1953. The following are the procedures recommended by the Working Party:

### I. Fourth Annual Report on Discrimination

2. Article XIV:1(g) requires that the CONTRACTING PARTIES shall report, in 1950 and annually thereafter, on any action still being taken by contracting parties under paragraph 1, (b) and (c) or under Annex J.

3. The first three annual reports were prepared on the basis of data furnished by contracting parties in response to questionnaires. The questionnaire for the 1950 report (GATT/CP/39) was issued in October 1949. The preparations for the second annual report were combined with those for the review of import restrictions in force which the CONTRACTING PARTIES were required to make in 1951 pursuant to Article XII:4(b). For this dual purpose the questionnaire was enlarged, but governments which had submitted answers to the first questionnaire were not required to repeat the information they had then supplied. For the third report, in 1952, the same questionnaire was used and governments were not required to repeat the information they had furnished in 1950 or 1951. Consequently, the descriptions of the restrictions maintained by contracting parties and of the action they have taken pursuant to Article XIV are spread through three or four documents and are now largely out of date. Therefore, the Working Party recommends that contracting parties be asked to furnish, in the first half of 1953, a new and complete description of the restrictions then in force.

4. Moreover, the Working Party considers that the questionnaire drawn up at the Fourth Session in 1950 now requires revision. The CONTRACTING PARTIES have decided that, in the preparation of these reports, they will give more attention than they have done in the past to the trade aspects of the discrimination policy. In order that the CONTRACTING PARTIES may be enabled to explore these commercial considerations more fully at the Eighth Session, a new questionnaire has been prepared (see Annex). The questions are intended to bring out more clearly than was done in the answers to previous questionnaires

the action taken by the governments to comply with the requirements of Article XII:3 (c) relating to the impairment of regular channels of trade and damage to commercial interests of other contracting parties and, in addition, the action taken to avoid as much as possible the incidental protective effects of quantitative restrictions. In addition, the proposed questionnaire solicits information concerning procedures adopted to exercise a close watch on prices of imports from soft-currency countries compared with prices of goods offered for sale from hard-currency countries.

5. The Working Party further recommends that the Executive Secretary be instructed to prepare a draft of the fourth annual report, to be distributed, if possible, in advance of the Eighth Session. In order that the Executive Secretary may be furnished with all data required for the preparation of such a draft, it is proposed that the CONTRACTING PARTIES specifically urge the governments concerned to furnish as comprehensive replies as possible by the date indicated. The Executive Secretary should be authorized to communicate with the governments imposing restrictions to seek such additional information as he considers would assist him in his task.

6. The Working Party recommends that the contracting parties be asked to furnish the answers to the questionnaire three months prior to the date fixed for the Eighth Session.

## II. Consultations under Article XIV:1 (g)

7. Governments continuing to take action under the provisions of Article XIV:1 (c) or of Annex J are required to consult annually with the CONTRACTING PARTIES. It is proposed that the procedures for the conduct of the 1953 consultations be the same as the 1952 procedures.

8. Such governments should initiate their 1953 consultations in March, and submit statements giving the details of the measures involved.

9. The Executive Secretary should be instructed to inform the CONTRACTING PARTIES and the International Monetary Fund, at the end of March 1953, of the governments which have initiated consultations, and to invite the Fund to consult with the CONTRACTING PARTIES in connection with these consultations under Article XV:2. It is considered that these consultations could be more effectively carried out if, before the opening of the Eighth Session, the International Monetary Fund would make available to the CONTRACTING PARTIES the results of its own 1953 consultations with the same governments, pursuant to Article XIV of the Fund Agreement.

## III. Action on Other Matters arising under Articles XII to XIV

10. The Working Party has reviewed the intersessional procedures for the initiation of consultations under Article XII:4 (b) in the light of the recommendation of the Intersessional Committee which was approved by the CONTRACTING PARTIES on 7 October 1952. It was then agreed to amend the

the procedure for initiating consultations so as to require a contracting party modifying its import restrictions to furnish detailed information promptly to the Executive Secretary for immediate circulation to other contracting parties, and requiring the Chairman and the Executive Secretary to determine, on the basis of this information, whether there is a prima facie case for the initiation of a consultation under Article XII:4 (b).

11. The Chairman and the Executive Secretary, and also the Intersessional Committee at its meeting on 4 September, were not able to determine whether there was prima facie evidence of circumstances requiring the initiation of consultations in several instances because the required information concerning the modification of import controls had not been furnished by the governments concerned. The Working Party, therefore, recommends that these agreed procedures be brought again to the notice of the CONTRACTING PARTIES so that when import restrictions are modified governments will not delay to submit full particulars to the Executive Secretary. Further, in order that the Chairman and the Executive Secretary may be able to judge the significance of modifications that take place, and to submit recommendations to the Intersessional Committee, the Working Party recommends that the Executive Secretary be authorized to communicate with any contracting party which he has reason to believe may have significantly modified its restrictions so as to obtain all the information which he and the Chairman require to carry out their responsibilities.

12. In view of the foregoing, the Working Party recommends that the "Procedures for Action on Matters arising under Articles XII-XIV between Sessions of the CONTRACTING PARTIES", as approved at the Third Session (GATT/CP.3/30/Rev.1 and 50/Rev.1) and modified at the Sixth Session (GATT/CP.6/52), be confirmed subject to the amendment proposed in paragraph 10 above. This recommendation is submitted on the assumption that the CONTRACTING PARTIES will appoint an Intersessional Committee to operate until the Eighth Session as proposed in document L/52 of 31 October 1952.

# ANNEX

## QUESTIONNAIRE

for

## THE FOURTH ANNUAL REPORT ON THE DISCRIMINATORY APPLICATION OF RESTRICTIONS UNDER THE TRANSITIONAL PERIOD ARRANGEMENTS OF ARTICLE XIV

### General Notes

1. This questionnaire need be answered only by contracting parties which are applying import restrictions under the provisions of Article XII. Those contracting parties which are not applying such restrictions need only notify that fact.

2. The term "import restrictions" is meant to include restrictions made effective, either directly or indirectly, through state-trading operations; and the expression "state-trading operations" is meant to include the operations of enterprises wherever located to which the contracting party has granted, formally or in effect, exclusive or special privileges.

3. In answering this questionnaire, contracting parties should furnish information and data in respect of restrictions applied to merchandise imported into their non-metropolitan territories to which the General Agreement applies.

4. The replies to this questionnaire should be accompanied by copies of all laws, decrees, etc., not previously furnished to the secretariat, which have provided for the establishment, maintenance and administration of the restrictions (including samples of public notices issued in compliance with paragraphs 3 (b) and 3 (c) of Article XIII) and copies of all bilateral agreements (not including state-trading contracts) directly affecting the importation of restricted products in 1952 and 1953.

5. Contracting parties are asked to submit their replies not later than [three months prior to the opening of the Eighth Session of the CONTRACTING PARTIES_7 The replies should be prepared in English and/or French. At least three copies should be sent to the Executive Secretary in Geneva by air-mail, and 50 copies should follow by surface mail.

QUESTION 1 - THE TECHNIQUE OF RESTRICTION

Describe the methods employed in applying the restrictions other than those covered by question 2 below. Also list the groups of products subject to each method (and the proportion of import trade in the last full year for which information is available), using a classification appropriate to the restrictive system in force, e.g.

(i) import licences without the fixing of quotas;
(ii) the fixing of global quotas;
(iii) the allotment of shares in quotas to countries of supply, either by unilateral action, special arrangement or negotiation;
(iv) prohibitions;
(v) other techniques, including barter and compensation arrangements.

QUESTION 2 - STATE TRADING

Provide a general statement showing which commodities were imported, during a recent year, by the State or by enterprises to which exclusive or special privileges have been granted and show their proportion to total imports. Indicate whether the commodities are subject to restriction for balance of payments reasons and outline the administrative procedures employed when imposing the restriction. Describe any element of discrimination that may be exercised through the application of restrictions to the purchases of state and monopoly enterprises, and the role of price and other commercial considerations in determining the source from which such imports are obtained.

QUESTION 3 - BASIS OF RESTRICTION

Where the shares in quotas are being allotted on the basis of "previous representative periods", state the period or periods selected and give, by products or by groups of products, the basis used for the choice.

QUESTION 4 - ACTION TO MITIGATE THE HARMFUL EFFECTS OF THE RESTRICTIONS ON THE TRADE OF OTHER CONTRACTING PARTIES

(a) Describe any action taken to avoid damage to the trade of other contracting parties by allowing

(i) the importation of goods in minimum commercial quantities where their exclusion would impair regular channels of trade;
(ii) the importation of commercial samples;
(iii) compliance with patent, trademark, copyright and similar procedures; and
(iv) by other special measures.

(b) Describe action designed to avoid unnecessary damage to the commercial or economic interests of other contracting parties.

QUESTION 5 - POLICY OF DISCRIMINATION

If restrictions are not administered in accordance with the rule of non-discrimination in Article XIII, describe the policy pursued and give relevant references to classifications of products and of supplying countries. Describe the implementation of this policy in terms of the various methods of restrictions indicated in answer to questions 1 and 2. Furnish trade statistics, including those for the last available year, which may help to indicate the effects of the restrictions on imports from various countries and currency areas.

QUESTION 6 - CONSIDERATIONS AFFECTING SOURCE OF IMPORTS

Contracting parties applying restrictions with discrimination are asked to describe the various considerations which are taken into account in determining the source of imports. Contracting parties operating under Annex J are asked to describe the implementation of (i) and (ii) of paragraph 1(a) of the Annex, giving illustrative examples with regard to (i).

Contracting parties which are governed by Article XIV:1(b) and (c) are invited to describe the role played by price and other commercial considerations in determining licencing policy by source.

QUESTION 7 - IMPORT ARRANGEMENTS WITH OTHER COUNTRIES

Describe any arrangements with other countries whether or not contracting party, in respect of restrictions on the importation of goods. Include statistics of the volume and value of imports in the last available year by country of origin for the principal products and groups of other products covered by such arrangements.

QUESTION 8 - IMPORT PROGRAMMES FOR 1953

Describe the policy and programme for 1953 in relation to the main currency areas and the various methods of import restriction.

QUESTION 9 - INCIDENTAL PROTECTIVE EFFECTS OF RESTRICTIONS

Describe the steps taken to minimize the incidental protective effects of the restrictions. (Note the recommendations contained in paragraphs 18 and 19 of GATT/CP.4/33).