CONSULTATION WITH POLAND

Fifth Review under the Protocol of Accession

Report by the Working Party on Trade with Poland

1. The Council at its meeting on 29 May 1972 established a Working Party to conduct on behalf of the CONTRACTING PARTIES, the fifth annual consultation with the Government of Poland provided for in the Protocol of Accession, to re-examine the question of the establishment of a date for the termination of the transitional period referred to in paragraph 3(a) of the Protocol, and to report to the Council.

2. The Working Party met on 9-13 October 1972 under the chairmanship of Mr. A. Dunkel (Switzerland).

3. The Working Party had before it the following documents containing information relevant to its work:


   L/3743 and Addenda 1-5: Notifications by contracting parties on discriminatory restrictions maintained on imports from Poland.

4. The following report sets down the main points of the discussion in the Working Party under the two headings:

   A. Annual review of Poland's trade with contracting parties.

   B. Establishment of a date for the termination of the transitional period in paragraph 3(a) of the Protocol of Accession.
A. ANNUAL REVIEW OF POLAND'S TRADE WITH CONTRACTING PARTIES

I. Polish Exports to the Territories of Contracting Parties

(a) The general trend and geographical distribution of Polish exports to the territories of contracting parties. Has there been an unexpected decline or increase in Polish exports?

5. The Working Party noted that the increase in Poland's exports to GATT countries from 1970 to 1971 had been 12.5 per cent. In absolute terms the exports to GATT countries had increased from $1,549 million to $1,745.7 million. Exports to all countries had increased from 1970 to 1971 by 9.2 per cent, from $3,547.6 million to $3,872.3 million.

6. The representative of Poland recalled that exports to developed market economy countries had increased by 18.9 per cent in 1970; in 1971 exports to these countries increased by 14.9 per cent.

(b) Development of Polish exports of different categories of goods, e.g. agricultural goods, raw materials, semi-manufactured goods, machinery and consumer goods

7. The representative of Poland explained that his country's increase in exports in 1971 was largely due to greater dynamism in exports of machinery and equipment. Exports of semi-finished products, especially coke, had also developed satisfactorily.

8. The Working Party noted the following figures for the share in total exports to contracting parties of the four main commodity groups:

<table>
<thead>
<tr>
<th></th>
<th>1970 To GATT countries</th>
<th>1970 To all countries</th>
<th>1971 To GATT countries</th>
<th>1971 To all countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Machinery and equipment</td>
<td>21.5%</td>
<td>38.5%</td>
<td>24.0%</td>
<td>39.9%</td>
</tr>
<tr>
<td>Raw materials and semi-manufactures</td>
<td>44.3%</td>
<td>32.7%</td>
<td>45.7%</td>
<td>32.7%</td>
</tr>
<tr>
<td>Food products</td>
<td>23.2%</td>
<td>13.2%</td>
<td>20.5%</td>
<td>11.8%</td>
</tr>
<tr>
<td>Consumer goods</td>
<td>11.0%</td>
<td>15.6%</td>
<td>9.8%</td>
<td>15.6%</td>
</tr>
</tbody>
</table>

Footnote: Figures for 1969-71 presented in this section of the report have been adjusted to take into account trade with Romania, which became a contracting party on 14 November 1971.
(c) Action taken by contracting parties under paragraph 3 of the Protocol to remove remaining quantitative restrictions on imports from Poland

9. The Working Party noted that the following contracting parties had notified that they did not maintain any discriminatory restrictions of the kind referred to in paragraph 3 of the Protocol:

- Argentina
- Australia
- Brazil
- Canada
- Cyprus
- Czechoslovakia
- Ireland
- Japan
- Malta
- New Zealand
- Portugal
- Romania
- Turkey
- Pakistan
- United States

10. It was recalled that in the course of the fourth consultation it had been noted that the following countries had informed the secretariat that they did not maintain discriminatory restrictions against Poland:

- Burundi
- Cameroon
- Ceylon
- Chad
- Chile
- Cuba
- Gabon
- Iceland
- Indonesia
- Israel
- Ivory Coast
- Kenya
- Korea, Republic of
- Kuwait
- Nigeria
- Rwanda
- Sierra Leone
- South Africa
- Spain
- Upper Volta
- Uruguay
- Yugoslavia

The Working Party noted that these countries had not communicated additional information to the secretariat for the fifth consultation.

11. The Working Party took note of the notifications on quantitative restrictions submitted by:

- Austria
- Finland
- Switzerland
- Denmark
- Norway
- United Kingdom
- European Economic Community
- Sweden

12. With regard to individual notifications submitted for the Fifth Consultation, notifying countries submitted the following additional information:

**Austria:** The representative of Austria stated that his country had, in the period under review, progressively relaxed its restrictions vis-à-vis Poland. A further 162 items had been liberalized while quotas on items still restricted had been increased. Austria had not increased the discriminatory element in restrictions applied vis-à-vis Poland. Accordingly, it was the view of the Austrian authorities that they had fulfilled the obligation under paragraph 3 of the Protocol, and it was their firm intention to continue their liberalization programme vis-à-vis Poland.
European Communities: The representative of the European Communities said that the Communities had continued to fulfill their commitment under paragraph 3(a) of the Protocol in that the discriminatory element in restrictions applied vis-à-vis Poland had not been increased and had been progressively relaxed. Polish exports to the Communities had increased by 67 per cent since 1969. He expressed the view that the Communities' notification corresponded to the expectations of the Working Party at the previous year's consultations in that it indicated restrictions specifically applicable to Poland. These restrictions affected 176 full positions and 123 partial positions representing a value of $42.2 million of imports from Poland. He noted that between July 1971 and July 1972 restrictions had been eliminated at Community level on thirty-one full BTN positions and eighty-four partial headings, products accounting for $28.4 million of imports from Poland. The number of full and partial headings had been reduced from forty to thirty-two in Benelux, from 200 to 185 in the Federal Republic of Germany and from 195 to 154 in Italy. In France twenty-three full and partial headings had been liberalized.

Finland: The representative of Finland stated that his authorities when issuing import licences had endeavoured to take account of the wishes of Polish exporters to the extent that Finnish import restrictions had in most cases no restrictive effect on Polish exports to Finland. According to document L/3742, Polish exports to Finland had increased from 1969 to 1970 by almost 40 per cent and from 1970 to 1971 by 36 per cent - substantially more than the general increase of Polish exports. The increase in Polish exports to Finland from 1970 to 1971 in items enumerated in document L/3743/Add.1 and subject to individual licensing had been 20 per cent. Finland had not increased the discriminatory element in its restrictions applied to Poland and had fulfilled its obligations under the Protocol of Accession.

Malta: The representative of Malta explained that any licences required by Malta for imports from Poland were not associated in any way with the administration of quantitative restrictions. For imports coming from Poland, licences were freely given. As stated in Malta's notification, any restriction imposed invariably applies to all contracting parties and not Poland alone. In this way, Malta had fulfilled its obligations under the Protocol.

Norway: The representative of Norway confirmed that the list of items submitted by his authorities included all products subject to restriction and not simply those for which there were actual imports. He confirmed also that the discriminatory element in the restrictions maintained by Norway had not been increased and that certain quotas had been enlarged.

Sweden: The representative of Sweden said that his country still maintained relatively few restrictions, all of which could be justified for social and economic reasons. Only a few of these had any real significance for Sweden's trade with Poland. Furthermore, the size of such quotas had been increased. He said that trade with Poland had developed satisfactorily in 1971, the global amount having increased by more than 20 per cent, and that trade with Poland was also in good balance.
13. Some delegations stated that they would prefer to have notifications from the European Communities on a member State basis since responsibility for the restrictions rested with the member States. On the basis of the present notification, prepared at the Community level, it was not possible for the Working Party to ascertain whether each of the member States had fulfilled its commitments. This problem would become even more acute in the future since Community notifications for 1973 and subsequent years would cover restrictions maintained by three additional countries, which now submit individual reports. These delegations considered, moreover, that the present notification from the Communities did not even comply with the Council decision of 28 April 1970\(^1\) in that it did not indicate the number of zones in which a product was subject to restriction. They expected that at a minimum the Communities would continue to supply information on zones as provided in the Council decision since the Communities had agreed to that decision. These delegations recognized that the Communities had acted on comments made at last year's meeting by limiting the coverage of its current notification to discriminatory restrictions applied vis-à-vis Poland. They pointed out, however, that the Communities had failed to provide analogous information for 1967 as provided for in the Council decision so that it was not possible to gauge progress made since that time. Some delegations noted that the trade figures given by the European Communities in List B of their notification did not represent actual progress in liberalization but rather total imports in all member States of goods falling in this list. For example, if a product had been restricted in only one member State prior to 1 July 1971, but liberalized during the following twelve months, total 1970 imports of the product in all member States would appear in List B. The $28.4 million total shown in List B thus overstated the progress made in liberalization.

14. The representative of the Communities, after re-stating that the Communities had fulfilled their obligations in regard to substance, drew the attention of the Working Party to the following points with respect to the form of notifications:

(a) The Communities had improved the presentation of their notification as compared to notifications presented in previous years, in line with the statement in paragraph 15 of the report on the fourth annual review.

(b) The Protocol of Accession did not specify what the form of notifications should be, and the Council had only adopted guidelines on the matter.

(c) The Communities considered that they had communicated sufficient details - both at Community level and at the level of member States - to allow the Working Party to carry out its terms of reference.

(d) The figures concerning the volume of trade for products liberalized at Community level should be read in conjunction with the figures concerning the volume of trade for items which had not yet been liberalized at Community level. Thus, the figure of $28.4 million in List B should be compared with the figure of $42.1 million in List A.

\(^1\)See C/W/161 and C/M/62.
(e) The Communities, while taking note of the remarks presented by other members of the Working Party, reserved their position regarding the future form of their notifications.

The representative of the Communities regretted that, as in previous years, the discussion in the Working Party had been mainly oriented toward questions of pure form, and that the consequence had been that the Working Party had not given sufficient attention to the real questions of substance.

15. The representative of Poland observed that on 1 January 1972 the Danish Ministry of Commerce, by its Regulation No. 546 of 21 December 1971, had introduced some changes in the Danish import system. Under this regulation the commodity list "C", which indicated goods restricted in a discriminatory way when imported from Poland, was expanded by the following new tariff positions: 08.10; 10.04; 20.03; 20.06; 40.10; 59.16. He stated that such expansion of the commodity list "C" was contrary to the provisions of paragraph 3 of the Protocol on Poland's accession to GATT, since it increased the discriminatory element in restrictions applied to imports from Poland. His country had approached the Danish authorities with a view to solving this problem through bilateral contacts, but no positive results had been achieved. In such a situation Poland considered it necessary to bring this matter to the attention of the CONTRACTING PARTIES.

16. The Danish delegation communicated to the Working Party that, contrary to the impression left by the Polish statement, overall Danish discrimination in relation to Poland had diminished over the period under consideration. The total number of restrictions towards Poland had been reduced through the liberalization of 42 tariff positions or ex positions. No new restrictions had been introduced against Poland. The fact that a few minor items had been liberalized in relation to market economy countries without at the same time being liberalized in relation to socialist countries could not be contrary to paragraph 3(a) of the Polish Protocol of Accession as long as overall discrimination was reduced.

17. Some delegations could not agree with the Danish view (set out in paragraph 16). They pointed out that paragraph 3(a) required that the discriminatory element in these restrictions not be increased. As some restrictions which had previously applied to all contracting parties, including Poland, now only applied to Poland, they could not agree that the provisions of paragraph 3 of the Protocol had been met. Other delegations could not share this view, as they accepted the Danish statement that Denmark had fulfilled its commitment under paragraph 3(a).

18. The representative of Poland drew attention to the fact that some countries had been fulfilling their commitments vis-à-vis Poland at a slower pace than others; in fact, in the case of some countries no progress had been made as compared with the previous year. Other members, while acknowledging some progress in the removal of restrictions, considered that the pace of liberalization was unduly slow and called for improvement in this respect.
19. Representatives of countries maintaining quantitative restrictions against Poland inconsistent with Article XIII pointed out that in recent years Polish exports to their countries had in general expanded at a faster pace than to other countries and concluded that these restrictions did not play a significant role in their trade relations with Poland. Other members did not agree. They pointed out that such a conclusion was not warranted because it was not possible to forecast what trade would be in the absence of quantitative restrictions. They also pointed to the continued assertion by Poland that its trade was hampered by the maintenance of these restrictions and that the increase in Polish exports to countries applying discriminatory restrictions had primarily occurred in products free of restrictions. In this connexion the representative of Poland quoted the following figures representing the share of exports subject to discriminatory restrictions in total exports of Poland in 1971 to some contracting parties:

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>45%</td>
</tr>
<tr>
<td>Federal Republic of Germany</td>
<td>40%</td>
</tr>
<tr>
<td>Sweden</td>
<td>30%</td>
</tr>
<tr>
<td>France</td>
<td>20%</td>
</tr>
<tr>
<td>Italy</td>
<td>15%</td>
</tr>
<tr>
<td>Austria</td>
<td>15%</td>
</tr>
<tr>
<td>Finland</td>
<td>15%</td>
</tr>
<tr>
<td>Benelux</td>
<td>15%</td>
</tr>
<tr>
<td>Denmark</td>
<td>10%</td>
</tr>
<tr>
<td>Norway</td>
<td>5%</td>
</tr>
</tbody>
</table>

Some delegations reserved their position with regard to the foregoing statement of the Polish representative.

(d) Other questions relating to the exports of Poland to the territories of contracting parties in the period under review, including any problems arising of the sort provided for by, or any action taken under, paragraph 4 of the Protocol.

20. The Working Party noted that no action had been taken under paragraph 4 of the Protocol.

II. Polish Imports from the Territories of Contracting Parties

(a) The general trend and geographical distribution of Polish imports from the territories of other contracting parties. Did actual Polish imports reach the quantities or values provided for in the period under review? If not, what was the reason for the shortfall in Polish imports?

21. The Working Party noted with satisfaction that according to the trade figures reproduced in annex II to document L/3742, the increase in Poland's imports from GATT countries from 1970 to 1971 had been 18 per cent. It thus exceeded Poland's commitment as set out in paragraph 3 of Schedule LXV - Poland (L/3498).

1According to Polish figures. The Polish representative noted that, according to United Kingdom notification, the percentage was 15 per cent.
22. The Working Party noted furthermore that Polish imports from contracting parties in the first half of 1972 had increased by 24.1 per cent as compared to the same period of 1971 and Poland's statement that accordingly its undertaking for the two-year period 1971-72 to import a total of not less than 221.5 per cent of the value of imports in 1970 would clearly be achieved.

(b) Development of Polish imports of various categories of goods (e.g. agricultural goods, raw materials, semi-manufactured goods, machinery and consumer goods) from the territories of contracting parties in relation to development of Polish imports from other countries

23. The representative of Poland stated that Poland's foreign trade played an increasingly important role in the Polish economy. He said that total foreign trade had risen in 1971 by 10.5 per cent to $7,910.3 million. Trade with GATT countries had increased by 12.5 per cent to $3,559 million. Total imports had increased by 12.2 per cent to $4,037.7 million; corresponding figures for imports from GATT countries were 18 per cent and $1,813 million.

24. With regard to the development of imports in the four main categories of goods, the Working Party noted that the share of total imports in 1970 and 1971 had been:

<table>
<thead>
<tr>
<th></th>
<th>1970</th>
<th>1971</th>
</tr>
</thead>
<tbody>
<tr>
<td>From GATT countries</td>
<td>From all countries</td>
<td>From GATT countries</td>
</tr>
<tr>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Machinery and equipment</td>
<td>33.4</td>
<td>36.4</td>
</tr>
<tr>
<td>Raw materials, fuel and semi-finished products</td>
<td>50.2</td>
<td>47.8</td>
</tr>
<tr>
<td>Agricultural products and foodstuffs</td>
<td>12.1</td>
<td>9.6</td>
</tr>
<tr>
<td>Manufactured consumer goods</td>
<td>4.3</td>
<td>6.2</td>
</tr>
</tbody>
</table>

25. The representative of Poland underlined the favourable trend in the structure of imports from contracting parties especially in so far as imports of capital goods and manufactured consumer goods were concerned; in particular the latter which had increased by 64 per cent in 1971. He hoped that in the future also imports of capital goods and manufactured consumer goods would grow at a faster rate than overall imports. He noted also that the structure of imports from GATT countries was similar to that of overall imports.
26. The representative of Poland stated that in 1971 industrial production rose by 8.3 per cent compared to 1970. Agricultural production had increased by 12.8 per cent and GNP by 7.8 per cent. He noted that the increase of total foreign trade by 10.5 per cent (exports 9.2 per cent, imports 12.2 per cent) thus exceeded the figure for increase of industrial output.

27. He stated that the rate of increase for trade with GATT countries was higher than for overall trade.

28. The representative of Poland stated that Poland, in increasing its imports from GATT countries in 1971 by 18 per cent had met its commitment for that year. In the first half of 1972, imports from GATT countries had increased by 24.1 per cent and according to estimates, imports in 1972 as a whole from GATT countries would substantially exceed Poland's obligations. In the first half of 1972, total industrial production had increased by 12.5 per cent compared to the previous year.

29. One member expressed concern with the apparent development of a system whereby compensation trade was now required for all major import projects on specific instructions from the Polish authorities, and asked for an assurance that imports were considered separately from exports. The representative of Poland, in giving this assurance, said that such a system did not exist and confirmed that all import projects were judged on their own merits without compensation trade being required.

III. Polish Balance of Payments with Contracting Parties

30. The Working Party heard explanations by the Polish delegation regarding the balance of payments of Poland with the contracting parties, and noted that according to the representative of Poland it did not seem likely that the present balance-of-payments situation would interfere with the fulfilment of Poland's commitment under the Protocol of Accession.

31. The representative of Poland noted, however, that due to the upward trend of imports in the first half of 1972 there might be a deterioration in the trade balance, and consequently in the balance-of-payments situation of Poland.
32. Some delegations asked a number of questions, inter alia whether future data on balance of payments could be broken down as between convertible currency countries and non-convertible currency countries. The representative of Poland explained that his country was bound by commitments vis-à-vis all the GATT member countries, and not vis-à-vis individual countries or groups of countries. Those commitments were indivisible and consequently the balance of payments could not be broken down by groups of countries. In addition, the representative of Poland explained that his country had already made considerable efforts in supplying the data in their present form—a form which was not discussed at previous consultations. He also gave additional explanations concerning the technical and methodological problems and drew the Working Party's attention to the fact that the form of presentation of the balance of payments had been established during the first annual review and had been followed during subsequent consultations. The representative of Poland said that he was not in a position to discuss the balance of payments of Poland in detail, and that his country would continue to supply data in the same form as at present.
B. ESTABLISHMENT OF A DATE FOR THE TERMINATION OF THE TRANSITIONAL PERIOD REFERRED TO IN PARAGRAPH 3(a) OF THE PROTOCOL OF ACCESSION

33. The Chairman recalled that the Working Party that had carried out the Fourth Consultation under the Protocol of Accession of Poland had not been able to agree on a date for the termination of the transitional period for the abolition of discriminatory restrictions; the question had therefore to be re-examined at the Fifth Consultation. It was also recalled that when adopting the Report on the Fourth Consultation in 1971, the Council had recognized the importance of the question of terminating the transitional period at an early date and recognized that contracting parties should intensify their efforts to arrive at that end (C/M/74).

34. The representative of Poland recalled that his delegation had at the previous consultations proposed that the expiry of the transitional period should be fixed for the end of 1974 and stated that it maintained its position. He stated that foreign trade played an increasingly important role in the development of the Polish economy and that Poland wished to participate fully in the international division of labour. Moreover, to ensure that the General Agreement would be fully applied as it should be in trade and economic relations between member States of GATT it was indispensable to settle definitively the expiry of the transitional period. He pointed out that in the five years since Poland's accession to GATT, Poland had fully met its commitments under the GATT and had in fact surpassed them. If this question were not settled, the principle of the General Agreement would be undermined.

35. Several members of the Working Party strongly supported the Polish proposal set out in paragraph 33 above.

36. Representatives of several countries still maintaining restrictions inconsistent with Article XIII indicated that their positions remained the compromise formula proposed by the Chairman at the Fourth Review (paragraph 41 of the Report on the Fourth Review) or the formula set out in paragraph 42 of the Report on the Third Review. They considered that there was no direct link between the implementation of Poland's obligations in respect of import programmes and the establishment of the end of the transitional period. The possible maintenance after 1974 of a limited number of quantitative restrictions inconsistent with Article XIII for exceptional reasons would constitute another problem, to be dealt with separately. Since it was impossible to arrive at a compromise formula, they noted with regret that, under the terms of the Protocol of Accession itself, the problem would have to be deferred to the next consultation.

37. The Polish delegation, supported by some other delegations, noted that in accordance with GATT rules, and in particular Article XXIII, there existed a direct link between the obligations of all contracting parties. These general principles of GATT had been reflected in the Protocol of Accession of Poland and constituted a close link between the rights and obligations of partners. Poland had completely fulfilled its obligations towards the CONTRACTING PARTIES. Poland had become a contracting party as a socialist State having a system of planned
economy, a fact which found expression in the Protocol of Accession. The appropriate safeguard clauses had been provided by Poland, and accepted by the CONTRACTING PARTIES.

38. In view of the divergencies of opinion set out above, the Working Party was not in a position to agree on a recommendation to the Council, and in accordance with paragraph 3(a) of the Protocol of Accession the question would have to be re-examined at the Sixth Annual Review. The representative of Poland said that his delegation wished that the question of the establishment of a terminal date for the transitional period should be brought to the attention of the Council at its next meeting.