SOUTH AFRICAN IMPORT RESTRICTIONS

The following letter, dated 6 December, and memorandum have been received by the Executive Secretary from the Government of the Union of South Africa:

"I have the honour to refer to the discussions which took place at Annecy concerning the import restrictions of the Union of South Africa, and to the Report of Working Party No. 3 (Document GATT/CP.3/49) in which certain suggestions were put forward in regard to the nature of the new scheme of import control which it was proposed to introduce in South Africa as from 1st July, 1949.

"2. Since the conclusion of South Africa's consultations with the CONTRACTING PARTIES certain important financial developments have occurred which have necessarily delayed a final decision by the South African Government on the nature of the new measures to be adopted. As a result of the developments referred to it has not been possible to communicate details of these measures to the CONTRACTING PARTIES at an earlier date.

"3. I now have the honour, however, to send you, for the information of the CONTRACTING PARTIES, two copies of a memorandum in which details of the new scheme are set forth.

"4. The memorandum contains certain important statements of a confidential nature on Government policy and I accordingly have the honour to request that it be given restricted circulation."

Note: This paper initiates a new series of GATT documents with the symbol "SECRET/CP/". One numbered copy only will be distributed to each contracting party.
MEMORANDUM FOR THE CONTRACTING PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

IMPORT AND EXCHANGE CONTROL MEASURES APPLIED BY THE UNION OF SOUTH AFRICA

I: INTRODUCTORY REMARKS

1. During the Third Session of the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade, the Union of South Africa initiated consultation with the CONTRACTING PARTIES regarding the restrictions on imports which were introduced on 5th November, 1948, and the new import control measures which were contemplated for the period after 1st July, 1949.

2. The consultation with the CONTRACTING PARTIES was conducted pursuant to Article XII 4(a) of the General Agreement on Tariffs and Trade, and included a detailed discussion in Working Party No. 3 of the various factors which contributed to South Africa's balance-of-payments difficulties and of the considerations which led the Government of the Union of South Africa in November, 1948, to impose certain restrictions on imports.

3. It is not intended to recapitulate in this memorandum the numerous verbal and written statements which were submitted to the CONTRACTING PARTIES by the South African Delegation during the consultation referred to above, but merely to give a brief description of the measures which have hitherto been adopted by the Union of South Africa and to explain the scheme which the South African Government propose to introduce as from 1st January, 1950.

II: MEASURES INTRODUCED PRIOR TO DECEMBER, 1949

4. As was explained in the course of the consultation with the CONTRACTING PARTIES, the South African Government on 5th November, 1948, decided on the following interim measures in an effort to stop the serious and persistent decline in the country's monetary reserves:

(a) the importation from all sources of certain types of articles (mostly luxury and non-essential goods as well as goods produced in sufficient quantities in South Africa) was prohibited except under special permit; and

(b) in the case of all other goods, the allocation of non-sterling exchange to South African importers for the period 1st July, 1948, to 30th June, 1949, was restricted to 50% of the amount drawn by individual importers during the base year 1947; in instances where it was considered in the interests of the country's economy, additional exchange was made available by way of supplementary quotas.
5. The prohibition on certain non-essential imports was applied on a completely non-discriminatory basis. The discriminatory exchange restrictions were discussed with, and approved by, the International Monetary Fund.

6. The list of goods classified as prohibited imports was considerably extended on 4th March, 1949.

7. Notwithstanding these measures, South Africa's monetary reserves continued to decline to such an extent that the South African Government on 1st July, 1949, found it necessary to replace the original system of non-sterling exchange quotas by a more drastic system of physical control of imports which was applied to imports from all countries. Simultaneously the list of prohibited imports as extended on 4th March, 1949, was maintained.

8. Since a number of administrative procedures and arrangements had to be finalised and a start had to be made with the issue of licences at least a month in advance of the actual introduction of physical import control, it was not possible for the South African Government to defer a decision on the policy aspects of import control until their consultation with the CONTRACTING PARTIES had been concluded.

9. The quotas of non-sterling exchange issued under the original system of exchange rationing had, in the majority of cases, been exhausted some months before the 30th June, 1949, when the first quota period came to an end, and South African importers desired to know in advance what amounts of exchange they would have at their disposal during the latter half of 1949 for imports from sterling as well as non-sterling sources so as to enable them to proceed with the placing of orders abroad.

10. In order, therefore, not to bring trade to a standstill after 30th June, 1949, estimates were prepared of the amount of sterling and non-sterling exchange which, it was thought, South Africa would be able to spend on imports during the second half of the year and an initial issue of permits made to an amount equivalent to half of the exchange which was estimated to be available.

11. Two types of permits were granted, namely -

(i) non-sterling permits which originally could be used for imports from non-sterling countries only but which, shortly after the introduction of import control, were made valid also for imports from sterling countries; and

(ii) sterling permits which could be used only for imports from sterling sources.

12. Permits were issued only for three categories of goods, namely, capital equipment, spare parts and raw materials for industry. No permits were granted for consumer goods except in very exceptional circumstances where the goods were highly essential for the maintenance of public health and the economy.
13. The initial issue of permits for the half year July to December, 1949, which was confined to raw materials, represented 162/3% in value of imports of raw materials by individual importers from the non-sterling area during the whole of 1948 and 25% in value of their imports of raw materials from sterling sources during the same period. It was estimated that the initial issue of permits on the basis of these percentages would absorb half of each of South Africa's available sterling and non-sterling resources, i.e.: half of £25 million and £30 million respectively.

14. It was hoped that, after this initial issue, the South African Government would be able to make a further issue as soon as greater certainty had been obtained about the exchange resources which would actually be available during the latter half of the year. Largely, however, as a result of the heavy import requirements of capital goods and spare parts of Government, public utilities and the gold mines, the South African Government did not find it possible to proceed with such a further issue of import licences.

15. The Gold Loan to the United Kingdom was repaid in full on the 13th September, 1949, and as was explained in paragraph 13 of Document GATT/CP.3/43, South Africa could not thereafter continue to offset its favourable balances with certain soft currency countries against its unfavourable balances with hard currency countries. Importers were accordingly informed that:

(a) all the unexpended portions of existing non-sterling permits could, if they so desired, be exchanged at the banks for sterling permits; and
(b) all sterling permits could be used for imports from "soft" currency countries.

For the purposes of this amended scheme "soft currency countries" were defined as all countries other than the United States of America and all territories falling under the sovereignty of the United States, Canada, Belgium, Luxembourg, the Belgian Congo and Ruanda-Urundi, Switzerland, the Republic of Liechtenstein, the Republic of the Philippines, Bolivia, Colombia, Costa Rica, Cuba, the Dominican Republic, Equador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, El Salvador and Venezuela.

III: NEW SCHEME TO BE APPLIED FROM 1ST JANUARY, 1950

A. NATURE OF SCHEME

16. After careful consideration of the views expressed and suggestions made by members of Working Party No. 3 as set out in Document GATT/CP.3/43 of the 15th June, 1949, the Government of the Union of South Africa have decided to base their new scheme of import control on a distinction between "hard" and "soft" currency countries and to issue two types of import permits, namely, universal permits and restricted permits.

* For a definition of hard currency countries see paragraph 15.
17. Universal permits, which will be available for imports from any country, will be issued to an amount equivalent to the estimated current gold production (less such amounts as may be necessary for the maintenance of satisfactory reserves) plus the earnings of hard currency minus estimated invisible imports from hard currency countries.

18. Restricted permits, which will be available only for imports from soft currency countries, will be issued for an amount equivalent to the estimated soft currency income (less such amounts as may be necessary to build up satisfactory soft currency reserves) minus estimated invisible imports from soft currency countries.

19. Of the soft currency resources £2,000,000 will be set aside to assist certain war-shattered countries on the Continent of Europe who were unable to re-establish their pre-war trade connections with South Africa before the introduction of import control.

20. Universal permits will be issued for the full amount of the country's imports of the following classes of goods:

(a) direct imports by the gold mining industry;
(b) essential foodstuffs;
(c) Government stores (including railway equipment);
(d) petrol and oil;
(e) electrical generation and distribution equipment.

21. The distribution of universal and restricted permits between other classes of goods will be determined by:

(a) the essentiality of the goods to maintain the economy of the Union of South Africa;
(b) the essentiality of the goods to develop the country's natural resources and to provide essential services;
(c) the availability of essential goods in "hard" and "soft" currency countries.

22. To the extent that universal permits are used by importers for purchases in soft currency countries, settlement will be effected in gold with the Bank of England.

23. The prohibited list will be maintained but, in order to comply with the spirit of Article XII 3(c)(ii) of the General Agreement, every importer of consumer goods whose total 1948 imports exceeded a value of £5,000, will receive an additional allocation of £50 universal and £5 restricted permits, which can be used for the importation of any goods whether on the prohibited list or not.
EXPLANATORY REMARKS: THE NEED FOR DISCRIMINATION

24. The South African Government have given careful consideration to the possibility of applying import control on a completely non-discriminatory basis by means of an open licence system. But such a system would be completely unrealistic in a world where the vast majority of currencies are inconvertible and would impose risks on South Africa which no country could be expected to assume.

25. The South African Government claim that the most they could reasonably be expected to do is to allow South African importers free selection of source of supply to the extent of the country's gold and convertible currency resources and this will be ensured under the system of universal permits outlined in paragraph 17 above.

26. Moreover, the South African Government are satisfied that the adoption of the scheme which they have decided to introduce is not only essential in the interests of the country, but would also ensure a larger volume of imports from both soft and hard currency countries than would be possible under an open licence system.

27. The main advantage of the scheme is that it would eliminate the risk that the inflow of capital from the United Kingdom will result in the loss of a corresponding amount of gold to that country. In the absence of such an arrangement the United Kingdom could not be expected to permit the free flow of capital as by doing so it would, in effect, provide South Africa with the necessary funds to finance any deficit it may have with the soft currency countries and thereby enable it to use its current gold production for the expansion of its imports from hard currency sources. Without this scheme, therefore, South Africa could not rely on the inflow of the large volume of capital that will be required during the next few years, particularly for the development of the new gold fields in the Orange Free State. If the necessary capital cannot be obtained overseas, the pace of development will be slowed down to such an extent that the output of the new mines may not be sufficient to offset the fall in output by the old mines. In that event, the expected increase in the total gold output, which it was hoped would enable South Africa to relax and ultimately abolish import control, will not materialise. The gold output may even fall and compel the South African Government to impose further restrictions on imports which have already been reduced to a level that cannot be maintained for any length of time without causing wide-spread unemployment and serious dislocation of the country's economy. It is, therefore, of crucial importance to South Africa to ensure a regular inflow of capital during the next 4 or 5 years.

28. According to paragraph 35 of Document GATT/CP.3/43, the United States representative suggested that South Africa should stimulate capital movements from "countries in surplus rather than from a country itself in deficit". This has been the policy of the South African Government but their experience has been that borrowing from surplus countries on reasonable terms is a somewhat difficult task.
29. The statement that South Africa is not allowing non-sterling area investors the same facilities as sterling area investors to withdraw their capital is wrong. The South African Government regret that owing to a misunderstanding this statement was not challenged at the time it was inserted in the document. Foreign investors have always been allowed to withdraw their capital and the same facilities have been extended to non-sterling area investors provided the investment was made by direct transfer of funds to South Africa. The country cannot, of course, be expected to allow foreign investors to withdraw capital unless gold or convertible currency accrued to South Africa as a result of the investment (e.g., if South Africa were to allow American investors who have bought South African gold-mining shares in London to sell such shares in the local market and transfer the proceeds to the U.S.A., American investors would in effect be enabled to convert sterling into dollars at the expense of South Africa's gold reserves).

30. There are encouraging signs that American investors are becoming increasingly aware of the investment opportunities offered by South Africa, but the fact remains that the traditional sources of supply remain an important factor, particularly for the heavy capital requirements of the gold mining industry which is basic to the prosperity of the country.

31. Since its inception the gold mining industry was largely financed by London and the close connection which the industry has built up over many years with the London capital market ensures a ready supply of capital for this specialised field of investment. These highly developed facilities cannot be reproduced elsewhere in a short space of time. For this reason the vital importance of ensuring the continued free flow of capital between the United Kingdom and South Africa could hardly be over-stressed.

32. In so far, therefore, as the adoption of the universal and restricted permit system involves discrimination, the South African Government claim that such discrimination is specially authorised by Annex J of the General Agreement on Tariffs and Trade. It is essential to the country's economy and will enable South Africa to obtain additional imports above the maximum total of imports which it could otherwise afford. It also approaches as closely to multilateral trading as circumstances permit.