GENERAL AGREEMENT ON TARIFFS AND TRADE

CONTRACTING PARTIES

DISCRIMINATORY APPLICATION OF IMPORT RESTRICTIONS UNDER TRANSITIONAL PERIOD ARRANGEMENTS OF ARTICLE XIV

Amendments submitted by the Delegations of the United Kingdom, New Zealand and the United States to SECRET/CP/3/Rev.1

1. Line 13, paragraph 2, insert exact dates of opening and closing of the Fourth Session.

2. Replace present paragraph 3 with the following: Article XIII of the Agreement lays down the general principle that contracting parties applying quantitative restrictions under Article XII for reasons relating to their monetary reserves, should apply such restrictions in a non-discriminatory manner as between other contracting parties. In Article XIV the contracting parties recognize, however, that the aftermath of the war has brought difficult problems of economic adjustment which do not permit the immediate full achievement of non-discriminatory administration of quantitative restrictions, and therefore require exceptional transitional period arrangements. Most of the contracting parties are in fact operating at present under an authority to discriminate only during the post-war transitional period.*

Contracting parties have had a choice between two sets of rules limiting any deviation from the strict rules of non-discrimination during this period. The first ("Havana" option) is contained in Article XIV and in general permits -

(a) the maintenance of discriminatory trade restrictions having an effect equivalent to exchange restrictions which the contracting party concerned may at the time apply under Article XIV of the Articles of Agreement of the International Monetary Fund, and

(b) the maintenance (and adaptation to changing circumstances) of any discrimination involved in balance of payments import restrictions which were being applied on 1 March, 1948, but which would not be covered by (a) above.

On the other hand those countries which have elected to be governed by the provisions of Annex J (the so-called "Geneva" option) are entitled to administer their balance-of-payments import restrictions in such a way as to increase the total of

* Footnote in New Zealand draft Secret/CP/3/Rev. 1/Add. 2
their imports above the level which could be obtained if restrictions were applied without discrimination between sources of supply.

Both Article XIV and Annex J include procedures for reporting and many important provisos aimed at avoiding the misuse of discriminatory import restrictions and limiting any longer-term adverse effects that such practices might tend to produce. For this reason the above statement should not be used as a basis for considering the consistency of any particular import practice with the terms of the General Agreement. For this purpose, direct references to the terms of the Agreement itself would be essential. For convenience of reference the texts of Article XIV and Annex J are reproduced in an Annex to this report; but it should be borne in mind that these Articles must be read in the context of the General Agreement as a whole.

3. The Belgian delegation has proposed an amendment to paragraph 5, line 22. After the word non-discrimination, insert the following: "or restrictive administration of possible measures authorized under Annex J". We do not consider that the meaning of this amendment is altogether clear and would not favor its adoption in its present form.

4. Insert the following paragraphs in section IV after paragraph 15:

Because of payments difficulties the reporting countries have found it necessary to apply stricter standards of review to the licensing of imports from hard than from soft currency areas. Several countries reported that licences for imports from other soft currency countries are issued with great freedom and, in some cases, the requirement for such licences has been entirely waived or is merely a formality. Usually each hard currency importation, on the other hand, involves a separate administrative decision requiring scrutiny of the need for the importation in the light of the non-availability of comparable goods in soft currency countries. Usually lists of items that may be imported from the hard currency area are established by the licensing authority but generally the amount and value of the imports are not programmed in detail in advance except for relatively short periods. It was also indicated that many types of goods imported from the dollar area do not lend themselves to the use of quotas or accurate import planning since they consist largely of capital equipment the importation of which is non-recurrent. In some instances, as in the case of New Zealand, the greater part by value of other types of goods is imported by a small number of importers under a few large orders in each licensing period, so that little real difference would result from replacing individual licensing by a quota system.

Information furnished has indicated that contracting parties which have elected to discriminate under Annex J have implemented the pricing provisions of that Annex in varying degrees and by different administrative procedures. In respect to Canada, for example, commodities which would otherwise have been procured in soft currency markets under the provisions of Annex J, are permitted to enter from hard currency sources if prices available in soft currency areas exceed by more than a reasonable margin prices available in hard currency areas. The United Kingdom also exercise a general scrutiny and comparison of relative prices in the hard and soft currency areas and in
a number of cases, commodities available in soft currency areas are still being procured in the hard currency area because of the unduly high prices of soft currency supplies. Several contracting parties indicated that self-interest would require due attention to relative prices in the hard and soft currency markets regardless of the provisions of Annex J. Some of the contracting parties (Southern Rhodesia and Union of South Africa) operating under the provision of Annex J have lists of commodities for which import licences from hard currency countries may not normally be issued. It was indicated that some flexibility exists with respect to the administration of these lists, but the use of such lists might tend to limit the application of the price criterion of Annex J. The contracting parties availing themselves of the provisions of paragraph 1(b) and (c) of Article XIV as a basis for imposing discriminatory import restrictions expressed the desire of their governments to obtain imports at lower prices whenever the limitations imposed by their foreign exchange availabilities permitted such action. In general, however, this group of countries, while emphasizing the importance of price and other commercial considerations in procurement in currency areas with which they had no payments difficulties, indicated that it had frequently been necessary to pay higher prices in soft currency areas in order to conserve their hard currency reserves. Contracting parties establishing quotas for export and import under bilateral agreements indicated that the allocation of such quotas was usually affected by price and other commercial considerations. The importance of such considerations may be limited, however, by the desire of such countries to attain a higher level of foreign trade with their various trading partners. It was pointed out by several of the delegations that currency devaluation has substantially reduced the degree of price discrepancy which formerly prevailed for many products between hard and soft currency markets.

5. The United States delegation would favor the deletion of separate section heading for the material now headed "Group Arrangements."

6. Revise paragraph 17 and 18 as follows:

Paragraph 17: In general each member of the sterling area imposes a stricter control on imports from countries outside the area than from countries which are members. The United Kingdom's reply to the Secretariat's enquiry stated: "The economy in imports by sterling area countries from hard-currency countries necessary to protect their reserves is secured by a voluntary understanding between the members of the sterling area to limit such imports so as to avoid any unjustifiable expenditure of gold or convertible currencies." Imports from other sterling area countries may be free of all restrictions and formalities or may be subject to only a lenient licensing procedure. In some cases the exemptions are extended to all soft-currency countries, but for purchase in dollars and other hard-currencies the licensing control is strictly enforced. The severity of the control of imports and the degree of discrimination naturally vary greatly from product to product and from time to time. For example, in July 1949 the United Kingdom and the other sterling Commonwealth countries (excluding South Africa) agreed to endeavour to reduce demands on their central reserves in respect of dollar imports by 25% below the level of 1948 in order to halt the severe drain on those reserves.
Discrimination is carried out by each member of the sterling area against those countries with which the sterling area as a whole is in balance-of-payments difficulties or, in other words, against countries whose currencies are hard relative to sterling. Thus, even though a sterling area country may have an active trade balance with the country outside the area, it may, nevertheless, limit imports from such a country possibly below its acquisition of the country's currency if the sterling area as a whole does not acquire sufficient of the country's currency to permit non-discriminatory admission of the country's imports to the area as a whole. (The United States proposed addition: This principle of discrimination based upon the bilateral balance-of-payments position of the sterling area to other countries differs somewhat from that employed by Canada since the latter to the small extent that she employs the provisions of Annex J. restricts imports from those countries which are not themselves in balance-of-payments difficulties even though Canada may have an active trade balance with certain of such countries.)

Paragraph 18. Additions and deletions proposed are by the United States:

The relative freedom of trade between most countries of the sterling area as compared with restrictions imposed on trade other countries, particularly the dollar area, is of course bound up closely with the fact that international payments by countries within the area are for the most part made in sterling (and that no exchange control is maintained by the United Kingdom on transfers of sterling within the area /even for capital transactions 7). Broadly speaking the sterling area countries also use sterling as their common external currency, and payments in respect of individual transactions between traders within the sterling area and those in other currency areas are conducted largely in sterling. Underlying the system, however, is the fact that the traditional pattern of trade and capital movements between the various countries of the area constitutes a fundamentally balanced system on a multilateral basis. It is this internal balance and the complementary nature of the sterling area countries' economies that make possible the free transferability of payments and the freedom of mutual trade within the area. Alternative to preceding two sentences proposed by the United States:

Underlying the system, however, is the fact that the pattern of trade within the area based upon the complementary of certain of the members' economies, combined with the comparative freedom of capital movements makes possible the balancing of intra-area accounts on a multilateral basis.

7. Delete in paragraph 21 the last sentence which is underlined in CP/3/Rev. 1.

8. Revise last sentence of paragraph 24 as follows: It was, however, clear that if an improvement in the dollar position of the countries applying restrictions should allow the relaxation of such restrictions on imports from hard currency sources, the general level of such imports would increase significantly in most countries which replied to the questionnaire.

9. We consider that the point raised in paragraph 29 is covered in a general way in the revised paragraph 3 and would recommend the deletion of paragraph 29. (United States suggestion: If the Netherlands delegation feels strongly regarding the inclusion of this paragraph, it might be added after paragraph 21.)