Panel of Experts on Notifications of Residual Restrictions

DRAFT INTERIM REPORT TO THE COUNCIL

1. The Panel was appointed by the CONTRACTING PARTIES at their nineteenth session and was given the following terms of reference:

(i) To examine the adequacy of the notifications of residual restrictions which have been received from contracting parties, and to clarify any points arising from the notifications with the contracting parties concerned.

(ii) To report thereon to the Council at its meeting in February or May 1962.

2. The Panel noted that when the notifications were discussed at the nineteenth session, the view had been expressed that those contracting parties which had not responded to the request should again be urged to do so as soon as possible. As a result, certain additional information had been made available by contracting parties since that session. When it met on 22 January the Panel had before it lists of residual restrictions submitted by some eleven contracting parties. About twenty contracting parties had stated that they applied no residual restrictions which required notification under the agreed procedures. Only a few contracting parties had still not responded to the request for information on their residual restrictions. The material available to the Panel is briefly described in Annex II to this report.

3. By its terms of reference the Panel was required not only to examine the adequacy of the notifications already received but also to clarify any points arising from them with the governments concerned. The Panel considered that, while no doubt some of this clarification work could be done in the course of its present meetings, at which a number of contracting parties were represented by the experts they supplied or by observers, the major part of the work would have to be done through written communications with governments. The Panel would, therefore, be unable to complete its work at the present meetings but would have to convene again when replies to its enquiries were available.

Since its appointment there has been a change in the composition of the Panel. Its actual membership is given in Annex I to this report.
4. The Panel agreed that:

(a) the panel should note down in the present report the points on which supplementary information or clarification should be requested from various contracting parties;

(b) the secretariat should be asked, on the basis of this report, to communicate with these governments with a view to obtaining the needed information;

(c) the additional information thus obtained should be circulated to members of the Panel and to all contracting parties towards the end of April; and

(d) the Panel would meet again in May\(^1\) to examine this information and to draw up a final report for consideration by the Council at its meeting which opens on 21 May.

5. As regards the points on which the secretariat should be asked to communicate with contracting parties the following are of a general nature in the sense that they are relevant not for any particular contracting party only but for most or a number of the contracting parties:

(a) A "negative list": In certain cases a contracting party had supplied the CONTRACTING PARTIES with a liberalization list or lists showing the products which had been freed from import restrictions, but no "negative list" showing the products remaining under restriction. The Panel considered that such liberalization lists provided an inadequate basis for an assessment of the extent to which restrictions were used by a contracting party, or for the implementation of the procedures adopted by the CONTRACTING PARTIES for dealing with residual restrictions. The Panel, therefore, strongly urged that the governments concerned make every effort to compile a negative list showing the restrictions which were at present in force, including relevant information as noted in the following paragraphs.

\(^1\) The Panel considered that the most convenient time for it to meet in May would be during the two weeks in which the Committee on Balance-of-Payments Restrictions was in session, i.e. from 7 to 18 May.
(b) Definition of products: The lists submitted by some contracting parties described the products subject to restrictions only in the most general terms. The Panel considered that it would be useful if more precise definitions of the products could be given, preferably in terms of the customs tariff nomenclature, or as they were actually used for import control purposes.

(c) Types of restrictions: Some of the lists available contained an enumeration of products without indicating the types of restriction to which they were subject. The Panel considered that information should be included on whether the restrictions in question involved the use of quotas, discretionary or administrative licensing, advance deposits, prohibition, or any other devices. In this connexion it should be noted that under the General Agreement "import restrictions" also comprise restrictions made effective through State-trading operations (see BISD, Vol.III, page 69). Contracting parties should, therefore, complete their lists by the inclusion of any such restrictions.

(d) Area of application: In most cases the notifications showed the countries, groups of countries or areas to which the restrictions were applied. Where such information was lacking the contracting party concerned should be requested to give the necessary information and, where necessary, give a clearer definition of any areas referred to in a notification. The Panel noted that in a number of cases a notification had been made only of restrictions applied to a defined group of contracting parties, e.g. those in the OEEC area or those in the OEEC and dollar areas; no information was supplied on restrictions applied on imports from other contracting parties. These notifying governments should be requested to complete their notifications by supplying lists of residual restrictions applied to all contracting parties.
(e) Duration of the restrictions: The Panel recalled that contracting parties had been requested to indicate in their notifications the intended duration of each restriction and noted that such information had been supplied only in a limited number of cases. The Panel was aware that it might not always be possible or easy for a government to state definitely when their restrictions would be removed, but it considered that it would be useful for the purposes of the residual restriction procedures if some indication could be given of such likelihood. The Panel, therefore, suggested that, insofar as possible, contracting parties should endeavour to give an indication of the date by which, in their present judgment or according to their present estimate, the restrictions were likely to be removed, or of their intention regarding the dismantling of such restrictions.

6. Apart from these questions of a general nature, the Panel also noted the information brought to its attention concerning possible omissions in the lists supplied by certain contracting parties. On the basis of this information the Panel has asked the secretariat to make enquiries with the contracting parties concerned with a view to ascertaining (a) whether any of the restrictions in question in fact existed and (b) if so, whether, in the judgment of the government concerned, the restriction was not inconsistent with the General Agreement and consequently need not be included in the notification; in the latter case it would be useful for the government concerned to indicate under which provision of the General Agreement the restriction was considered to have been covered.

7. With regard to the few cases in which no notification had been received, the Panel has requested the secretariat to renew its efforts to obtain a reply from the governments concerned. The Panel was of the view that for practical reasons no such request need be made to the acceding or associated governments, such as Argentina, Ireland, Poland, Spain, Tunisia, and the "newly-independent States", at the present stage.
8. The Panel expects that immediately after the present meetings the secretariat would proceed with obtaining information from individual governments along the lines indicated above. The Panel suggested that the Council, at its meeting in February, should stress to contracting parties the desirability and importance of complying with the requests which the Panel had made to them through the secretariat, so that the fullest possible information would be made available to the Panel to enable it to conclude its examination of the overall and individual adequacy of the notifications.
Additional Sub-Paragraph 5(f)

(f) Most of the notifications received contain no list of restrictions of the kind described in paragraph (a)(ii) of the request, that is, restrictions which, in the judgment of the notifying government, are permitted by virtue of the terms on which it is provisionally applying the General Agreement (see L/1563, page 1). The secretariat should call attention to this request, and contracting parties should be urged to supply such a list or to indicate that no such restrictions were in force.