

UNITED KINGDOM - DOLLAR AREA QUOTAS

*Report of the Panel adopted on 30 July 1973
(L/3891 - 20S/236)*

1. The Panel was appointed by the Council on 19 December 1972, with the following terms of reference:

"To examine the matter referred by the Government of the United States to the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXIII relating to import restrictions maintained by the United Kingdom and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or rulings provided for in paragraph 2 of Article XXIII."

2. The following was the composition of the Panel:

Chairman: Mr. K. A. Sahlgren (Finland)

Members: Mr. A. Dunkel (Switzerland)
Mr. G. O. Niyi (Nigeria)
Mr. P. Tomic (Yugoslavia)

3. The Panel, on 19 April 1973, submitted an Interim Report¹ to the Council. This Interim Report of the Panel was discussed and noted by the Council on 30 April 1973. The Panel, in its present report, wishes to refer to the contents of the Interim Report, particularly to Chapter II (Factual situation regarding products subject to Dollar Area Quotas), including the annexed statistical data, and Chapter III (Considerations of the Panel).

4. Since the submission of the Interim Report to the Council, the Panel has continued to hear representations from and consulted with the delegations of the United States, the United Kingdom and, as envisaged in the Council's discussion of 19 December 1972, also delegations of Commonwealth Caribbean countries and territories, as well as the delegation of Cuba. The Panel also had the benefit of a brief presented by the delegation of Israel.

5. On 9 July 1973, the Director-General of the GATT was informed in writing by the United States of the withdrawal, following the settlement between the United States and the United Kingdom, of the complaint brought under Article XXIII:2. Details of the settlement were subsequently communicated to the Panel in separate letters from the United States and the United Kingdom.

6. The Panel welcomes the fact that agreement has been reached between the parties to the dispute. The Panel understands, however, that the Commonwealth Caribbean countries do not consider the settlement reached between the United States and the United Kingdom as giving full satisfaction to their interests, especially in view of the importance of the products concerned to their export interests and to their economies in general, and bearing in mind Part IV of the General Agreement - as well as the repeated assurances given by both parties to the dispute that it was not their intention to harm the export interests of Caribbean countries in the products included in the settlement.

7. The Panel welcomes the assurances given by the Governments of the United Kingdom and the United States to continue to safeguard, as far as possible, the interests of the Caribbean countries.

¹ See page 230

Interim Report of the Panel adopted on 30 July 1973

(L/3843 - 20S/230)

I. Introduction

1. The Panel was appointed by the Council on 19 December 1972¹ with the following terms of reference:

"To examine the matter referred by the Government of the United States to the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXIII relating to import restrictions maintained by the United Kingdom and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or rulings provided for in paragraph 2 of Article XXIII."

2. The following was the composition of the Panel:

Chairman: Mr. K.A. Sahlgren (Finland)

Members: Mr. A. Dunkel (Switzerland)
Mr. G.O. Niyi (Nigeria)
Mr. P. Tomic (Yugoslavia)

3. In the course of its examination of the matter, the Panel heard representations from and consulted with the delegations of the United States, the United Kingdom, and, as envisaged in the Council's discussion of 19 December 1972, also delegations of Commonwealth Caribbean countries and territories, as well as the delegation of Cuba. The Panel had the benefit of substantial background documentation supplied by these delegations. In the course of the consultations, the Panel received clarification from these delegations on a number of aspects central to the issue.

4. The matter referred to the Panel related to the maintenance by the United Kingdom of quantitative restriction on certain products when

imported from the United States and certain other "dollar area" countries.² The following products are subject to these restrictions:

BTN	Product
ex 08.01	Bananas
ex 08.02	Grapefruit, fresh
ex 08.10	Grapefruit (whether or not cooked), preserved by freezing, not containing added sugar
ex 20.03	Grapefruit preserved by freezing, containing added sugar
ex 20.06	Grapefruit, otherwise prepared or preserved, whether or not containing added sugar or spirit
ex 20.07	Grapefruit juice and orange juice other than unpasteurized frozen orange and grapefruit juice concentrate
ex 22.09	Rum
ex 24.02	Cigars

¹C/M/83.

²The countries concerned are: Bolivia, Canada, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Republic of Honduras, Liberia, Mexico, Nicaragua, Panama, Philippines, United States, Venezuela.

5. The Dollar Area Quota restrictions had their origin in the exchange control and currency conservation measures taken by the United Kingdom during and immediately after the Second World War. Initially the Dollar Area Countries were those whose exports to the United Kingdom required payment in United States dollars. It needs to be stressed that this is no longer the case and the term "Dollar Area" in no way now implies a requirement for payment in dollars. While the restrictions originally applied to a wide range of products, most of the quotas were subsequently removed, leaving those on the products referred to in paragraph 4 above. The quotas on these products while initially introduced for balance-of-payments reasons are now maintained on the grounds that they are regarded as constituting valuable protection for the economic interests of the developing Commonwealth Caribbean countries.

II. Factual situation regarding products subject to Dollar Area Quotas

In the course of its deliberations of the matter, the Panel held an item-by-item review of each of the products subject to Dollar Area Quotas. On the basis of available statistics (Annex), the Panel examined the trend of United Kingdom imports in recent years of these products from the three main sources, i.e. Commonwealth countries, countries subject to Dollar Area Quotas and third countries not subject to Dollar Area Quotas. It also examined the duties currently applicable on these products in the United Kingdom and the changes resulting from the gradual adoption by that country of the common customs tariff of the EEC. The following summarizes the review.

Bananas (ex 08.01)

The Commonwealth Caribbean countries and territories account for by far the bulk of United Kingdom imports of bananas, but their share has been decreasing in recent years and now represents 76 per cent of total United Kingdom imports of bananas. The principal suppliers from this area are Jamaica and the Windward Islands, both of which send virtually all their banana exports to the United Kingdom. Bananas account for a very substantial part of total exports of the Windward Islands while these exports also represent a significant proportion of Jamaica's total exports.

As regards Dollar Area Countries, Ecuador is the only significant exporter; imports from Ecuador however, account for only about 1-2 per cent of total United Kingdom imports of bananas. The Dollar Area Quota stood at 4,000 tons until 1971-72, but in 1971-72 was increased by 10,000 tons and by a further 10,000 tons in 1972-73.

As regards third countries, Ivory Coast, Surinam and the Canary Islands, are the most important exporters of bananas to the United Kingdom. Imports by the United Kingdom from these third countries are substantially higher than from the Dollar Area.

With respect to customs treatment, the Commonwealth Caribbean countries benefit from duty-free entry into the United Kingdom at present while Dollar Area countries and third countries are subject to a specific duty of £0.375 per cwt (representing approximately 11 per cent *ad valorem*).

Grapefruit fresh (ex 08.02)

The Commonwealth Caribbean countries have not generally accounted for a significant part of the United Kingdom imports of this product although there was a substantial increase in imports from them in 1971. The most important supplier in 1971 from this area was British Honduras while Windward Islands and Jamaica exported relatively small amounts of grapefruit.

The Dollar Area countries have not exported appreciable quantities of this product, although a global Dollar Quota of £1.15 million applies: a separate quota exists for Cuba. In fact, the statistics indicate exports from the United States for only one of the past four years.

By far the major supplies of the United Kingdom came from third countries including some benefiting from preferences in the United Kingdom. Israel is the principal supplier accounting for nearly half of total United Kingdom imports of the commodity, while Cyprus and South Africa, benefiting from duty-free treatment also export large quantities.

The customs duty for non-preferential suppliers is £0.25 per cwt (approximately 6 per cent *ad valorem*). The Common Tariff of the EEC to be adopted gradually by 1978 by the United Kingdom, is 6 per cent.

Grapefruit preserved by freezing (ex 08.10 and ex 20.03)¹

On the basis of the available statistical data it appears that the United Kingdom does not at present import these products from any source.

There is no customs duty on ex 08.10 in the United Kingdom; the EEC common tariff is 20 per cent. As regards ex 20.03, there is no duty chargeable when imported from preferential suppliers, while a rate of 15 per cent applies to imports from other sources; the EEC common tariff is 26 per cent plus an additional charge for sugar.

Grapefruit, otherwise prepared or preserved (ex 20.06) (canned grapefruit)

The Commonwealth Caribbean countries in recent years have accounted for about 30 per cent of United Kingdom imports of this product. No imports from Dollar Area countries have been recorded in recent years although a quota of £450,000 exists. The main supplier of the product is Israel, imports from which represent about 40 per cent of United Kingdom imports of the commodity.

The item is duty-free with respect to imports from all sources but the United Kingdom will gradually adopt the EEC tariff (in the range of 20-32 per cent) and levy.

Grapefruit juice and orange juice (ex 20.07)

The proportion of United Kingdom imports of these products supplied by the Commonwealth Caribbean countries had declined substantially from over 50 per cent in 1960 to less than 10 per cent in 1971. Nevertheless, Jamaica, Trinidad and Tobago and British Honduras export significant quantities in absolute terms.

The United States, the sole Dollar Area exporter, also accounts for about 10 per cent of United Kingdom imports. In 1970-71 the Dollar Area Quota was fully utilized.

The major supplier, whose exports doubled in 1971, is Israel; this country supplies 60 per cent of United Kingdom imports of the commodity.

At present, no customs duty is applicable in the United Kingdom with respect to imports from any source. The United Kingdom will gradually adopt by 1978, the EEC common customs tariff which can vary from 15 per cent to 19 per cent and 42 per cent depending on the value of the commodity.

¹ex 08.10: not containing added sugar.
ex 20.03: containing added sugar.

Rum (ex 22.09)

The Caribbean countries and territories supply by far the bulk of United Kingdom imports of rum, about 95 per cent. The Bahamas is the largest exporter of this group accounting for about half of United Kingdom imports, but Guyana and Jamaica also export large quantities.

The Dollar Area Quota is £90,000 and is fully used up. Mexico appears to be the only supplier in this Group on the basis of 1970 data. Of other countries, only Brazil has shown any significant exports in recent years.

Imports of rum from all sources are subject to a substantial excise duty in the United Kingdom which has a very slight preferential margin with respect of Commonwealth countries.

Cigars (ex 24.02)

Only Jamaica, of the Commonwealth Caribbean countries, exports cigars to the United Kingdom and their exports represent only about 2-3 per cent of United Kingdom imports. In the Dollar Area group, the United States and Cuba are the only exporters. The Dollar Area Quota is £100,000 and has been fully utilized in recent years, a separate bilateral quota exists for Cuba.

The bulk of United Kingdom imports of cigars come from other countries, especially the Netherlands, which in 1971 accounted for about 70 per cent of United Kingdom imports. It appears, however, that these cigars are of a smaller variety and do not compete with the cigars imported from Jamaica, Cuba and other sources.

Imports of cigars from all sources are subject to a substantial revenue duty, which has a slight preferential margin for Commonwealth suppliers.

III. Considerations of the Panel

1. The Panel noted the contention of the United States delegation that the restrictions were in contravention of Article XI and XIII of the General Agreement and that delegation's request that the restrictions be eliminated. The Panel also noted that the United Kingdom had never denied that the Dollar Area Quotas were in formal contravention of the provisions of the General Agreement on quantitative restrictions, and for

the time being reserved its findings on this question. The Panel noted as well the argument put forward by the Caribbean countries and territories that the restrictions must be viewed in the context of the General Agreement as a whole and with particular regard to Part IV of the Agreement. According to these delegations, the continued application of the quotas was justified in the light of Part IV was designed to deal with the special circumstances of developing countries.

2. In the course of its consultations, the Panel ascertained that the items of critical interest to the United States were: fresh grapefruit (ex 08.02), citrus juices (ex 20.07), rum (ex 22.09) and cigars (ex 24.07). The Panel accordingly decided to concentrate its further deliberations on these four items.

3. With respect to these four items, the Panel noted that the products principally benefiting from the Dollar Area Quotas were fresh grapefruit (ex 08.02) and citrus juices (ex 20.07). Moreover, on the basis of recent statistical data, imports by the United Kingdom from these countries of fresh grapefruit accounted for no more than 3 per cent of total United Kingdom imports of this product; on the other hand, virtually all of the exports by the Caribbean countries of this product go to the United Kingdom. Similarly, imports from these countries of grapefruit juices represent only about 10 per cent of total United Kingdom imports of this product while on the other hand 60 per cent of Jamaica's exports of this product and 40 per cent of Trinidad and Tobago exports go to the United Kingdom.

4. The Panel noted the contention of the United Kingdom delegation that the Dollar Area Quotas bring no trading advantage to the United Kingdom and are not linked to any reverse preferences or trading concessions granted on a reciprocal basis to the United Kingdom by the countries and territories concerned and, furthermore, that the quotas afforded no protection to any United Kingdom national industry or trading interest.

5. The Panel noted the possibility of assessing the damage which is inflicted by the Dollar Area Quota on United States exports of the commodities concerned to the United Kingdom market and the further possibility of suspending such concessions or other obligations under the General Agreement as is deemed to be appropriate in the circumstances.

6. The Panel considered and discussed with the parties concerned various possible solutions and, in this connection, strongly requested the parties concerned to actively seek a mutually acceptable solution to the problem which especially would pay due regard to the importance to the Caribbean countries and territories of the two products referred to in paragraph 3 above, namely fresh grapefruit and grapefruit juice and orange juice.

7. In the light of the above, and taking into account the constructive spirit of the parties concerned, the Panel refrains from making formal recommendations at this stage. It will, however, revert to the matter and make appropriate recommendations, if after an interval of one month from the date of presentation of this Interim Report to the Council, the parties concerned have been unable to reach a mutually acceptable solution to the problem.