

normal distribution of trade would constitute discrimination, and would be prohibited under this Charter except in the limited number of special circumstances set out in Article 23.

Article 22 establishes the general rule of non-discrimination and sets out a number of rules and procedures concerning its application. While these rules and procedures apply mainly to import restrictions, they are also to relate, wherever applicable, to export restrictions.

In paragraphs 1 and 2 the definition of non-discrimination is clearly set out. Restrictions, if used, must apply equally to trade with all countries, and Members must aim at a distribution of trade as near as possible to that which would operate in the absence of such restrictions. There follow a number of provisions governing the application of import controls. A Member which desires to limit the total of imports should, for preference, use the method of quotas, but where this method is not practicable import licensing may be adopted. The Member may not, however, specify on the import licence the country or source from which the goods are to be obtained, unless this is done as a part of a system of allocating import quotas among supplying countries in a non-discriminatory way. The test of whether or not an import licensing or quota system is non-discriminatory is contained in paragraph 2 (*d*), the purpose of which is to provide that—

- (i) The shares in the total quota allocated to each supplying country may be agreed on between the Member and those supplying countries. Obviously if a supplier has agreed on his share in the total quota it cannot complain that the importing Member is discriminating against it. Or,
- (ii) If no agreement is possible, the Member shall allot shares in the total import quota among supplying countries in accordance with the actual shares which they enjoyed in a previous “representative” or normal period, which might be some years past. Full allowance shall be made for any “special factors” which may have affected or may be affecting trade in the commodity concerned—*e.g.*, price changes, new sources of supply, availability, credit terms, and other similar matters which would affect trade in the absence of restrictions. The reference to the “previous representative period” is not designed to freeze the channels of trade, but to provide a basis of calculation by means of which import trade may be fairly distributed among suppliers. In this way there is a minimum of interference with normal commercial relationships. The selection of the “previous representative period” is made in the first instance by the Member itself, subject to complaint by another Member whose interests are affected (paragraph 4).