

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

G/25

31 October 1952

General Distribution

## PANEL OF COMPLAINTS

### REPORT ON THE SPECIAL IMPORT TAXES INSTITUTED

#### BY THE GREEK GOVERNMENT

1. The Panel examined with the representatives of Greece and France the complaint of the French Government regarding the alleged inconsistency of a special "contribution" levied by the Greek Government on certain imported goods. Representatives of the IMF participated in the discussions on this matter. The French Delegation, supported by the United Kingdom Delegation, contended that the tax was applied only on imported products and was contrary to the provisions of paragraph 2 of Article III of the General Agreement as no corresponding charge was levied on like domestic products. The United Kingdom Delegation maintained also that, if it were found that the Greek "contribution" was not to be considered as an internal tax or charge within the meaning of Article III, it would nevertheless have to be treated as an import charge within the meaning of Article II, and, as that charge was in excess of those authorized by the provisions of that Article, it was contrary to those provisions insofar as it applied to products in Schedule XXV.
2. On the other hand, the Greek Delegation stated that the contribution levied by its Government was, to all intents and purposes, a charge imposed on foreign exchange allocated for the importation of goods from abroad equivalent to a multiple currency practice which measure was considered by the Greek Government as indispensable to cover the constantly widening gap between the official exchange rates of the drachma in relation to foreign currency and the effective purchasing power of the drachma. Accordingly, this contribution did not fall under Article III, the application of which was limited to internal taxes applied on imported products.
3. The Panel attempted to elucidate the factual situation and to analyse the complicated issues involved.
4. One of the main difficulties in this connection was the fact that the "contribution" against which the French Government complaint was directed has undergone substantial changes since it was introduced, in November 1951. It might be useful to record that the original measure was repealed on 31 December 1951, and replaced by new regulations which, in turn were modified by a new order dated 8 October 1952. As the text of the new Decree has been available in Geneva only a few days, the delegations concerned were not in a position to examine the changes recently introduced.
5. It appeared to the Panel that the principal question arising for determination was whether or not the Greek tax was an internal tax or charge on imported products within the meaning of paragraph 2 of Article III. If the finding on this point were affirmative, the Panel considered that it would be subject to the provisions of Article III whatever might have been the underlying intent of the Greek Government in imposing the tax.

6. In this connection, the Panel took into account the comments of the Committee of the Havana Conference which drafted the text of Article 18 of the Havana Charter which, with a few verbal changes, replaced the original text of Article III of the General Agreement. These comments are as follows:

"The Sub-Committee considered that charges imposed in connection with the international transfer of payments for imports or exports, particularly the charges imposed by countries employing multiple currency practices, where such charges are imposed not inconsistently with the Articles of Agreement of the International Monetary Fund, would not be covered by Article 18. On the other hand, in the unlikely case of a multiple currency practice which takes the form of an internal tax or charge, such as an excise tax on an imported product not applied on the like domestic product, that practice would be precluded by Article 18. It may be pointed out that the possible existence of charges on the transfer of payments insofar as these are permitted by the International Monetary Fund is clearly recognized by Article 16." \*

7. On the other hand, if the contention of the Greek Government were accepted that the tax was not in the nature of a tax or charge on imported goods, but was a tax on foreign exchange allocated for the payment of imports, the question would arise whether this was a multiple currency practice, and if so, whether it was in conformity with the Articles of Agreement of the International Monetary Fund. These matters would be for the determination of the International Monetary Fund. If the Fund should find that the tax system was a multiple currency practice and in conformity with the Articles of Agreement of the International Monetary Fund, it would fall outside the scope of Article III.

8. Even if it were found that the tax did not fall within the ambit of Article III, the further question might arise under Article XV(4) whether the action of the Greek Government constituted frustration by exchange action of the intent of the provisions of Article III of the General Agreement.

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\* Reports of Committees and Principal Sub-Committees, page 62 paragraph 39.

9. The Panel does not feel that sufficient information is available at the present time as to the nature of the tax system or method of its application to enable a determination to be made as to whether it falls within the terms of Article III, or constitutes additional import charges under Article II. It, therefore, recommends that the CONTRACTING PARTIES invite the interested contracting parties to submit additional information on these points. In particular, the Panel suggests that the CONTRACTING PARTIES should request additional information regarding the operation of the tax system introduced by the Greek Government on 8 October 1952, its form and its method of application.

10. The Panel suggests moreover that the CONTRACTING PARTIES should address an enquiry to the International Monetary Fund as to whether the Greek "contribution" in force since 8 October 1952 (a) is a multiple currency practice, and (b) whether or not it is in conformity with the Articles of Agreement of the International Monetary Fund.

11. If these steps are taken, the Panel considers that the CONTRACTING PARTIES when they come to deal with the matter again, will have before them the necessary information to determine whether the Greek "contribution" is an internal tax or a charge on imported goods within the meaning of Article III, or an additional import charge under Article II, and at the same time, the findings of the Fund.

12. At that time the CONTRACTING PARTIES could also consider whether any question arose under Article XV:4.

13. In suggesting that the CONTRACTING PARTIES defer a decision on this point pending the receipt of further information, the Panel have taken into account that, although both the French and United Kingdom Delegations have stated that they are suffering commercial damage as a result of the "contribution" imposed by Greece, this is not their major concern in having the matter brought before the CONTRACTING PARTIES. The desire of these two contracting parties is to obtain a decision on principle from the CONTRACTING PARTIES and, in the event that the measures were judged inconsistent with the General Agreement, the withdrawal or modification of these measures by the Greek Government.