

GENERAL AGREEMENT ON TARIFFS AND TRADE

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MINUTES OF MEETING

Held in the Palais des Nations, Geneva,
on 19 September 1972

Chairman: Mr. C.H. Archibald (Trinidad and Tobago)

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1. Uruguay - Import Surcharges (L/3722)

The Chairman recalled that at its meeting in July 1972 the Council considered the report by the Committee on Balance-of-Payments Restrictions on the examination of the Uruguayan system of import surcharges (L/3722). The Committee had concurred that the Uruguayan import surcharges and restrictions, as applied at their present level, were justifiable on balance-of-payments grounds, and had proposed an extension of the waiver for a further period, subject to certain conditions. However, in order to permit some delegations to obtain clarification regarding some uncertainties with respect to the elimination of discriminatory elements in the administration of the surcharge and possible discriminatory aspects in draft legislation on freight reservation, the Council had agreed to revert to this matter at its present meeting.

Mr. Dunkel (Switzerland), Chairman of the Committee on Balance-of-Payments Restrictions, stated that following further consultations it was proposed to insert in the draft decision, between paragraphs 3 and 4, a new paragraph to read as follows: "The surcharges authorized under this Decision will be applied exclusively for solving balance-of-payments problems and may not be applied for protectionist purposes or for purposes implying discriminatory treatment in favour of ships flying the Uruguayan flag."

The Council approved the text of the draft decision proposed in Annex I of the report, as amended, and recommended its adoption by the CONTRACTING PARTIES.

The draft decision was submitted to a vote and the Chairman invited representatives having authority to vote on behalf of their Governments to do so. Ballot papers would be sent by mail to those contracting parties not represented at the meeting.

The Council adopted the report of the Balance-of-Payments Committee (L/3722).

2. United Kingdom Restrictions on Cotton Textiles (L/3741)

The Chairman recalled that at the last meeting of the Council the representative of Israel had introduced his Government's complaint regarding restrictions maintained by the United Kingdom on imports of cotton textiles from Israel. The Council had agreed to revert to the matter at this meeting and had now begun to investigate it in accordance with the provisions of paragraph 2 of Article XXIII.

The representative of Israel pointed out that, after an examination of the United Kingdom general quota system in April 1966, the Cotton Textiles Committee had concluded that the matter did not fall within the terms of Article 4 of the Long-Term Arrangement or under either of the other relevant provisions of the Arrangement (i.e. Articles 2 and 3). In the view of the Israeli delegation, there was no legal or economic basis for the continued maintenance of restrictions on imports of cotton textile products from Israel, because (a) the quantity of imports from Israel was declining from its already insignificant level, (b) the prices of Israeli cotton textile products were at the same level as those for products originating in the countries whose exports to the United Kingdom were not restricted, and (c) imports from Israel did not cause any actual injury nor were they a source of potential injury to the United Kingdom textile industry.

Israel had refrained from making any representations in view of the United Kingdom's declared policy that as from 1 January 1972 all quantitative controls on cotton textile imports would be abolished. However, when the United Kingdom announced in mid-December 1971 a sudden reversal of policy, whereby the restrictions would be maintained, Israel had asked the United Kingdom Government on several occasions to enter into consultations. Discussions between Israeli and United Kingdom representatives finally took place on 1 and 2 June 1972. During the discussions, no attempt was made by the United Kingdom to dispute Israel's representation of facts, except for a reiteration of the United Kingdom's general contention that the complaint was unjustified. The United Kingdom had not replied to a memorandum addressed to it by the Israeli delegation on 19 July 1972.

The Israeli delegation stressed the fact that its trade interests, both actual and potential, were being damaged by the United Kingdom restrictive measures and it requested the CONTRACTING PARTIES, in accordance with the provisions of paragraph 2 of Article XXIII, to examine this question as a matter of urgency. The setting up of a panel seemed to the Israeli Government the most appropriate procedure to be adopted by the Council in this connexion.

The representative of the United Kingdom said that in his view the Cotton Textiles Committee, in accordance with the provisions of the Long-Term Arrangement, appeared to be the most appropriate forum for an examination of the problem. Moreover, in October there would be a meeting in London between Israeli and United Kingdom Ministers which would provide a useful opportunity to discuss the matter. He assured the Israeli delegation that the Israeli interests would not be injured either now or after the United Kingdom entry into the

European Economic Community. He requested that no decision be taken at this meeting. If, after the ministerial meeting, the dispute still existed, the United Kingdom would be fully prepared to discuss the proposal for a panel.

The representative of Israel could accept that consideration by the Council of his proposal for the establishment of a panel should be postponed until after the time of the ministerial meeting.

The Council agreed to wait for the results of these further consultations and to keep the matter on its agenda.

3. Customs Unions and Free-Trade Areas - Procedures

The Chairman recalled that the Council, at its last meeting, had continued the consideration of a proposal made by the United States regarding procedures for the submission and examination of basic information concerning newly established customs unions and free-trade areas.

The representative of the EEC stated that the Community fully supported the need for a practicable and effective system which would take account of all the legal and practical aspects of the question. He considered, however, that work had not yet sufficiently progressed and asked that the matter be deferred to the next meeting.

The representative of the United States recalled his delegation's original proposal and its statement made at the last meeting (C/M/79, page 14). The United States delegation could accept the idea that an item should not be on the agenda without consultation. He proposed, therefore, that the Council should note that Article XXIV:7(a) of the General Agreement required that any contracting party deciding to enter into a customs union or free-trade area or an interim agreement leading to the formation of such a union or area shall promptly notify the CONTRACTING PARTIES and the Council should agree, without prejudice to the legal obligations of the signatories to an agreement to notify in accordance with paragraph 7(a), that at the request of the contracting parties concerned or after consultation with them, such agreements should be included on the agenda of the first meeting of the Council after the signing of the agreement, provided that the requirement of ten days' notice for including items in the agenda could be met. The Council should at such meeting establish the time-table and procedure for examination of such agreement.

The representative of the EEC pointed out that the United States referred to "the legal obligations of signatories", while Article XXIV did not speak of signatories, but of a decision of contracting parties to enter into an agreement. Furthermore, the obligation for the Council to establish a time-table might well be unrealistic in cases of insurmountable practical difficulties.

The Council agreed that more time was necessary for reflection and decided to return to the subject at its next meeting.

4. European Economic Community - Compensatory Taxes (L/3715)

The Chairman recalled that at its last meeting the Council had begun consideration of a complaint, submitted by the United States under paragraph 2 of Article XXIII, against the imposition by the EEC of compensatory taxes on a number of products in excess of rates of duty bound in the EEC schedule. It was stated then by the EEC that a decision had been taken to abolish, as from 31 July, the compensatory amounts in respect of a very large number of products and that the Community would make every effort to abolish the remaining compensatory amounts as soon as circumstances permitted.

The representative of the Community confirmed that since the last meeting the decision to abolish the compensatory amounts on a large number of items had taken effect. He re-emphasized his earlier statement that the Community would make every effort to suppress the compensatory amounts on the remaining items as soon as circumstances permitted.

The representative of the United States noted that the compensatory amounts had been removed on most of the items which were the subject of the United States complaint. However, as compensatory amounts were still being collected on products subject to GATT bindings, the United States urged the removal of these charges in conformity with GATT obligations. The United States was however prepared to defer further action in view of the statements made by the Community, but it reserved the right to raise the matter again at a later stage if it felt it was necessary to do so.

The Council agreed not to pursue the matter at this stage, but to keep it on the agenda.

5. French Import Restrictions - Recourse to Article XXIII:2 by the United States (L/3744)

The Chairman recalled that at the twentieth session of the CONTRACTING PARTIES, in November 1962, the United States delegation referred to the CONTRACTING PARTIES, in accordance with the provisions of Article XXIII:2, a matter relating to import restrictions maintained by France. The CONTRACTING PARTIES recommended to the French Government the withdrawal of restrictions inconsistent with Article XI and also recommended to the United States Government that it refrain, for a reasonable period of time, from exercising its right under Article XXIII:2 to propose suspension of the application of equivalent obligations or concessions. The Council was authorized to deal with any such proposals, if necessary. The United States delegation had now submitted by letter, dated 8 September (L/3744), a request that the subject be considered by the Council.

The United States representative recalled that the matter referred to the CONTRACTING PARTIES in 1962 covered import restrictions on 35 products in the agricultural sector and 8 industrial products on which the European Community had granted tariff concessions to the United States. After the decision of the

CONTRACTING PARTIES the United States, rather than making a proposal to suspend concessions, had continued to discuss this matter bilaterally with France. Although certain restrictions had been removed full satisfaction had not been obtained.

In March 1972 the United States informed France that it was willing to refrain from initiating suspensory action, if France would agree to the complete elimination within two years of all outstanding quantitative import restrictions on agricultural products and progressive and substantial increase in the quotas for these products in the interim period. The remaining industrial import restrictions would be eliminated by 1 January 1973. Since no acceptable solution could be found, the United States now proposed to suspend tariff concessions on products of French origin only, which covered trade to an amount of US\$12.2 million. This amount covered only the impairment attributed to restrictions on agricultural products and the United States reserved its position as to the industrial products concerned. The amount was based on a conservative estimate of what, in the absence of quantitative restrictions, United States exports could be of three agricultural products: canned fruit, dried prunes and dried and dehydrated vegetables. No account had been taken of restrictions remaining on certain tomato products. The estimate was based on trends of United States exports in other European markets which were free from restrictions and also reflected United States export experience under quotas and French administrative arrangements. The United States delegation considered this a fair proposal which, in their view, should be acceptable to the Council.

The representative of France pointed out that the United States proposal had been made only a few days ago and the matter was under careful study. He could therefore not make a pronouncement on this matter at this stage.

The Chairman pointed out that, in a case like this, the Council normally would wish to seek the recommendations of a panel of experts on the question of the appropriateness of the United States proposal, in particular as to the amount of trade coverage involved. Since the United States proposal had been made only ten days ago, he suggested that the two parties concerned should consult between themselves with a view to reaching agreement, in particular as regards the amount proposed by the United States.

The representative of the United States said he could accept this suggestion so long as it included a reasonable limitation in time.

The representative of France also accepted the suggestion.

In summing up, the Chairman concluded that the Council, having received the proposal of the United States, set out in document L/3744, reaffirmed the conclusions and recommendations of the CONTRACTING PARTIES, as set out in paragraphs 6 and 7 of the Report of the Panel of 14 November 1962, and in particular the entitlement of the United States to make a proposal regarding the suspension of the application to France of equivalent obligations and concessions, in accordance with the provisions of paragraph 2 of Article XXIII.

The Council welcomed the willingness of the parties concerned to consult with a view to reaching agreement on the amount of trade coverage involved.

The Council stood ready to hear a report from the parties concerned at its next meeting so as to determine what appropriate action would be necessary in accordance with the provisions of paragraph 2 of Article XXIII.

6. European Free Trade Area Agreements

The representative of Sweden informed the Council that on 22 July 1972 negotiations had been concluded relating to the establishment of six free-trade areas. These negotiations were conducted between, on the one hand the European Economic Community, the European Coal and Steel Community, the present and acceding member States of the European Communities and, on the other hand, the governments of each of the following countries: Austria, Finland, Iceland, Portugal, Sweden and Switzerland. The agreements had been signed, in the case of Finland initialled, on the same day by the parties concerned. He informed the Council that the parties to the agreements were ready to communicate the texts as soon as they were available in final form. The parties were prepared to discuss the texts at any time convenient.

7. Canadian Legislation on Import Documentation

The Brazilian representative stated that the Canadian Government had recently introduced new legislation concerning import documentation. The new legislation required Canadian importers of products worth Can\$10,000 or more to submit a declaration from the foreign exporter as to whether the latter was entitled to a reduction, deferral or exemption from corporate income taxes in respect of income earned on exports that would have been payable if the goods had been sold for home consumption. If the answer to the question was positive, further details were required. He expressed concern that this regulation would have a negative impact on trade flows and on the efforts in GATT and elsewhere to promote further liberalization of international commercial exchanges. He expressed doubts as to the consistency of the measure with Article VIII:1(c) of the General Agreement and felt, furthermore, that this initiative ran counter to the efforts being deployed in Working Group 2 of the Committee on Trade in Industrial Products. It was also to be feared that such measures could signify the introduction of new impediments to trade as they could provide in their administration opportunities for discrimination and protectionism by delays in import clearing procedures. The Brazilian delegation was particularly concerned with the implication of these measures for developing countries which were entitled, under Part IV of the GATT, to special treatment. Brazil considered that the general and indiscriminate application to all contracting parties of the Canadian regulation represented a breach of the standstill commitments undertaken by Canada under Article XXXVII:1. Brazil expected the Canadian authorities to assume full compliance with their engagements under Part IV by suspending the application of the new legislation to imports from developing countries.

The Canadian representative replied that the measures referred to by the Brazilian representative were to be used for the establishment of a system for the collection of information in order to permit the identification of imports from countries allowing deferral, remission or rebate of corporate taxes payable on income derived from export sales. This information related only to taxes on corporate income and did not cover customs drawbacks or the remission of commodity taxes. It was required for shipments valued at Can\$10,000 or over. A number of countries applied incentive schemes whereby income from exports was eligible for corporate income tax deferral or rebate, thereby giving exporters benefitting from such schemes not only a competitive advantage in exporting to Canada, but also in exporting to third markets. This could, in the long run, affect investment decisions related to the location of manufacturing and processing facilities. The Canadian authorities had been aware for some time of the existence of corporate income tax deferral or remission schemes for exports, but there were no adequate means for identifying their specific impact. The new procedures were intended to assist in providing the data necessary for the analysis of the impact of these schemes. As Working Group 2 of the Committee on Trade in Industrial Products would soon be meeting to consider import documentation, it seemed appropriate to consider the general questions raised by the Brazilian representative in that forum.

The Council agreed to allow for time for consultations and could revert to the matter later, if necessary.