

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

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MINUTES OF MEETING

Held in the Centre William Rappard on 18 October 1978

Chairman: Mr. J.J. REAL (Uruguay)¹

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1. Canada - Withdrawal of tariff concessions under Article XXVIII:3
(C/M/125, 126, 127)

The Chairman announced that the two parties had requested that this item should not be pursued at the present meeting of the Council.

The Council took note of the statement.

¹Mr. Real, Vice-Chairman of the CONTRACTING PARTIES, presided in the absence of the Chairman of the Council, Mr. M. Yunus (Pakistan).

2. Spain - Measures on imports of pulp (C/M/126, 127)

The representative of Spain recalled that in spite of the difficult situation which had prevailed in his country with regard to imports of pulp, his authorities had been able to avoid taking import restrictive measures which would have been permitted under the General Agreement. He noted that import licences for pulp were presently issued in normal circumstances and without delays. He pointed out that his authorities maintained a system of import licensing in order to be able to follow developments as to the volume and nature of imports, and to implement their commercial policy. He stated that prices on the pulp market had come back to a normal level. He had furthermore been informed that the private agreement between producers and importers of pulp was no longer operative. If further explanations were needed his delegation was ready to continue informal discussions with the delegations concerned. He considered, however, that this item could be withdrawn from the Council's agenda.

The representative of Sweden, speaking also for Finland and Norway, said that the import situation for pulp in Spain had improved since the beginning of October and he expressed the hope that this would continue to be the case. His delegation would follow the import situation very carefully and intended to pursue the matter in bilateral discussions with the Spanish delegation. There was therefore no need to retain the item on the agenda of the Council.

The representative of Canada also acknowledged the improvement in the import market and indicated his intention to participate in further bilateral consultations with the Spanish delegation.

The Council noted that there was no need to retain the item on the agenda of the Council.

3. EEC - Minimum import prices, licences and surety deposits for processed fruits and vegetables (L/4687).

The Chairman recalled that at the meeting of the Council in June 1976 the United States had sought recourse to the provisions of Article XXIII in connexion with the EEC system for the regulation of imports of certain processed fruits and vegetables. At a subsequent meeting the Council had decided to refer this matter to a panel for examination. The report of the panel had now been distributed (L/4687)

Mr. Jagmetti (Switzerland), Chairman of the Panel, stated that the report contained a brief summary of the factual aspects of the Community measures in question, the main arguments as presented to the panel by the parties concerned and the panel's analysis and conclusions. In view of the

complex nature of the matter he refrained from presenting a summary of the main sections of the report. He pointed out that not all of the panel's conclusions had been adopted unanimously, but the panel had been unanimous in its conclusions with regard to nullification or impairment of benefits accruing to the United States.

The representative of the United States expressed his appreciation for the work achieved by the panel. He said that his delegation was ready to accept the findings of the panel and to adopt the report. He stressed that all delegations had an interest in an objective dispute settlement mechanism without which faith in the rules of the trading system would quickly be eroded. It was, moreover, of the highest importance that those involved in dispute settlement should be able to carry out their duties with a minimum of delay and without the interference of interested parties.

The representative of the European Communities expressed appreciation for the work of the panel and stated that the Community could accept the adoption of the report. He noted that the panel had to a large extent recognized the merits of the Community arguments. He stated that where this had not been the case the Community had since then, for internal reasons, abolished the measure.

He nevertheless wished to place on record three remarks bearing on questions of interpretation arising from certain conclusions of the panel. He noted that the minimum price had been applied to tomato concentrates, while the domestic intervention applied to fresh tomatoes during the production period. The panel had found that the minimum import price for tomato concentrates was necessary essentially during the periods when fresh tomatoes were being bought in by the intervention organizations. He questioned how one could ensure the support for fresh tomatoes, an important part of which were destined for processing into tomato concentrates, if the concentrates could be imported at any price and in large quantities during a large part of the year. This would evidently have a totally negative effect on the outlets for fresh tomatoes intended for the processing industry. He questioned how the system could function if the minimum price on concentrates would essentially apply during the period of production of fresh tomatoes.

As regards the second point, he stated that Article XI generally provided for the principle that the effects of internal intervention measures should be in balance with the effects of measures applied at the frontier on imports. He noted that the panel had considered that the EEC intervention system could not be considered to be an effective restriction on the marketing or production of tomato concentrates. He could not share this point of view; he pointed out that the panel did not contest that part of the products bought by the intervention organizations were either destroyed or given to needy persons, so that there was indeed a definitive withdrawal from the market of part of the production. There was therefore a sacrifice caused by internal measures and the question to which the panel should have addressed itself was whether such a sacrifice was balanced by the sacrifice resulting from the obligation to adhere to a minimum price for tomato concentrates. The EEC thought that this was indeed the case.

In the third place he considered that there was a certain contradiction in the report, in that in one part of the report it was concluded that the minimum price and associated additional security system was governed by the provisions of Article XI, which refers to measures other than duties, taxes or other charges, while in another part of the report it was found that the additional security was inconsistent with the provisions of Article II.

He stated that the Community reserved its position as to the use in future of the panel's interpretation with respect to these three points.

The Council took note of the statements and adopted the report.

The Chairman, on behalf of the Council, expressed appreciation for the work carried out by the panel in its present and earlier composition.

4. EEC - Refunds on exports of sugar (L/4701)

The item was placed on the agenda at the request of the Australian delegation.

The representative of the European Communities said that he did not intend to speak on the substance of the matter, but only on a matter of procedure. He recalled that for discussions among delegations of matters covered by the General Agreement various approaches were possible. The most generally applied procedure was to have informal discussions on such matters without any reference to a particular GATT provision. A more formal approach was to request consultations with reference to paragraph 1 of Article XXII. And finally, in case of a serious complaint, it was open to any contracting party to have recourse to the provisions of paragraph 1 of Article XXIII, which initiated a formal complaint procedure. He considered it essential that these formal procedures be followed, so as to enable the parties to be notified in due course of the nature of the complaint and to assess its seriousness. He pointed out that although the Community had had discussions with Australia on this matter, it had not had formal consultations with explicit reference to paragraph 1 of Article XXIII. If the Australian approach were to be followed, any contracting party might find itself confronted unexpectedly with action under Article XXIII:2, because the complainant party could consider, for example, bilateral discussions within the context of the MTN on some other measure as constituting formal consultations under Article XXIII:1. His delegation had already on 4 October, indicated to the Australian authorities the views of the EEC on the procedural aspects and its readiness to have these consultations promptly. He was in a position to repeat this proposal. His delegation was not in a position, at this meeting of the Council, to discuss the substance of the matter.

After some further discussion the Chairman noted that the point of procedure had been dealt with and that the Council could now address itself to the substance of the matter.

The representative of Australia expressed the view that the EEC export practices in respect of sugar were not consistent with the Community's obligations under Article XVI:3. He believed that it was beyond dispute that the EEC was subsidizing its exports of sugar. He pointed out that for 1977 EEC sugar refunds had totalled US\$414 million for 2.7 million tons of exported sugar and that the EEC itself admitted that these so-called refunds were for the explicit purpose of competing in sugar export markets. He considered that the EEC had gained more than an equitable share of the world market for sugar. He pointed out that the EEC free market exports of sugar in the seven years to 1975 had averaged 1.27 million tons, that they had reached 2.7 million tons in 1977 and were expected to reach 3.6 million tons in 1978. The Community share of a virtually static export market of 16 million tons over the past ten years (except for 1977) had jumped from 11.2 per cent in 1976 to an estimated 22.4 per cent for 1978. At the same time the maximum level of EEC subsidy on sugar exports had risen from US\$60 per ton in 1975 to US\$403 per ton in mid-1978 and the EEC total subsidy payments had increased from US\$46 million to an estimated US\$830 million. Australia had had fruitless bilateral consultations on this matter for about a year and now requested the Council to consider this matter urgently and to establish a panel for this purpose.

The representative of Brazil said that the export subsidies granted by the European Communities in respect of sugar had particularly damaging effects for the more efficient producers in developing countries. The Community not only used subsidies to prevent access to its own market, but also to obtain a substantial and growing share of the world market. He pointed out that in 1978 the maximum level of these subsidies represented more than twice the international price of sugar. He pointed out that the large increase of Community net sales of sugar to the free market had occurred in a period of large accumulations of stocks and falling prices. The grave situation in the world sugar market had led in 1977 to the conclusion of the International Sugar Agreement between thirty-nine exporting and sixteen importing countries. The Community had so far refused to accept the export quota system, and had also not been able to attend further discussions aimed at facilitating the accession of the Community to the Agreement on the basis of equivalent disciplines. He pointed out that since January 1978 exporting countries members of the Sugar Agreement had been subject to strict export quotas which imposed heavy sacrifices on them. The EEC, by not submitting itself to export disciplines, had obtained a more than equitable share in the world market through its export subsidy system and had directly benefited from the price sustaining efforts of the other

sugar exporting countries. He concluded that the EEC policy in respect of sugar was in contradiction with its commitments under the GATT and caused serious prejudice to the interests of other contracting parties, in particular developing countries. His delegation supported the establishment of a panel and intended to submit its representations to the panel in due course. His Government formally reserved its rights under Article XXIII of GATT.

A large number of delegations supported the request made by Australia for the establishment of a panel. Some delegations stated specifically that in their view the prerequisites for establishing a panel had been met, and that the consultations that had already taken place could form a basis for action under Article XXIII:2. A number of delegations expressed their grave concern about the effects of these measures. They associated themselves with the statements made by Australia and Brazil and appealed to the European Community to join in the efforts of the international community to stabilize the world sugar market. The representatives of the Philippines and India also indicated their intention to submit representations to the panel.

The representative of Australia noted that Australia's request for the establishment of a panel had obtained very wide support. He recalled that Australia had conducted bilateral consultations with the European Communities for almost a year on agricultural products, including sugar, and he was of the opinion that the consultations requirements as a prerequisite for the setting up of a panel had thereby been met. He urged that the panel should be set up quickly and should arrive at findings rapidly because of the implications of this matter for the discussions on subsidies in the framework of the Multilateral Trade Negotiations. His delegation was ready to accept any three experts nominated by the Chairman of the Council.

The representative of the EEC repeated the Community offer to conduct formal consultations under the provisions of Article XXIII:1 at very short notice.

After some further discussion the European Communities and Australia agreed to have immediate consultations under the appropriate GATT procedures. If in these consultations no satisfactory adjustment of the matter was effected between the Communities and Australia, the Council, at the request of either party, would be convened again with the usual ten days' notice, in order to investigate the matter in accordance with the provisions of Article XXIII:2, including the question of the setting up of a panel.

The representative of Nicaragua, speaking on behalf of countries members of SIECA, and Peru indicated their interest in these consultations.

The Chairman stated that the interests of other contracting parties would be noted and that Australia had indicated that it would inform the other contracting parties of progress made in these consultations.

5. Proposed Article XIX action on copper by the United States (L/4699)

The representative of Chile said that in a communication circulated in document L/4699 the United States informed the contracting parties of action proposed by the United States International Trade Commission on imports of refined unwrought copper. He emphasized that the imposition of import restrictions on copper would lead to an even further deterioration of the present depressed situation in the international copper market, as new surpluses would be created with the consequential effect of a further decrease in prices. He pointed out that developing countries depending on exports of copper would be particularly affected as the developing countries' share in the United States market for copper amounted to 60 per cent of the total. He also stated that the increase in imports of copper was due to the fact that the North American Producers' price had been maintained above the international market price, so that American consumers had shifted their preference to imported copper. He stressed that copper was Chile's most important export product and expressed the hope that the United States Government would not accept the recommendation of the International Trade Commission.

The representative of Peru also expressed concern about the recommendation by the International Trade Commission in respect of copper. In his view the difficulties of the United States copper refining industry were basically due to the instability of copper prices in the international market which had prevented exporting and importing countries from organizing their policies properly in terms of production and consumption and improving their production facilities in the interest of their investments. The developing countries particularly were in a disadvantageous position since they were forced to sell their copper in the prevailing market conditions. The adoption of the recommended measures would, in his view, create serious difficulties for countries like Peru whose export receipts had already declined considerably. He expressed the hope that the United States Government would not adopt the recommendation of the International Trade Commission.

The representative of Zaire and Yugoslavia also expressed their concern and supported the views expressed by the delegations of Chile and Peru.

The representative of Canada said that his country also was an important copper exporter to the United States. Consultations on this question had been taken up by his authorities and he hoped that the recommended measures would not be adopted by the United States authorities.

The representative of the United States stated that while imports of copper had increased, domestic production had declined and, as a result, the ratio of imports to production had increased considerably. He underlined that his authorities would give due consideration to the views of the copper-producing countries in arriving at their decision.

The Council took note of the statements.

6. Agreement between the EEC and Spain (L/4695)

The Chairman drew attention to document L/4695 which contained a report on developments under the Agreement between the European Economic Community and Spain, distributed under the procedure for the submission of biennial reports under regional agreements.

The representative of the United States pointed out that the report contained few figures permitting a judgement on developments under the Agreement. He expressed the hope that future reports would contain more concrete information.

The Council took note of the report.

7. Procedures for negotiations under Article XXVIII (L/4651/Rev.1 and Add.1-3)

The Chairman recalled that at its meeting in July the Council had considered a Note by the Director-General, which contained certain procedural guidelines for renegotiations under Article XXVIII.

A revised version of the guidelines had been circulated in document L/4651/Rev.1. Since some further suggestions for amendments had been received he suggested that the Council should revert to this matter at its next meeting.

The representative of the European Communities proposed that the three-year statistics referred to should include the most recent statistics available.

The Council agreed to revert to this matter at a later meeting.

8. Portugal - Import surcharges

The representative of Portugal, raising a matter under Other Business, referred to the Portuguese scheme of import surcharges which were at the level of 30 per cent or 60 per cent depending on the list of products subject to the surcharge. He informed the Council that the application of the scheme had been extended until 31 December 1978. He furthermore stated that as of 1 October 1978 the surcharge of 30 per cent had been reduced to the level of 20 per cent, without any change in the list of products. His authorities were contemplating a further reduction of this surcharge to 10 per cent as of 1 April 1979 and its complete abolition on 1 October 1979.

The Council took note of the statement.

9. Japan - Restraints on imports of leather

The representative of the United States, raising a matter under Other Business, recalled that at its last meeting the Council had requested the United States and Japan to pursue their bilateral consultations under Article XXIII:1 on the question of Japanese restraints on imports of leather for a further period. The Council had also agreed that its Chairman should take the necessary steps for the establishment of a panel with appropriate terms of reference, if the matter had not been settled satisfactorily on the proposed bilateral basis by 20 September 1978. He now informed the Council that bilateral consultations had not led to a satisfactory outcome of the matter and he expressed the hope that a panel be established soon.

The Chairman confirmed that action towards the formal establishment of the panel was proceeding.

10. EEC - Adoption of European Unit of Account for the Common Customs Tariff

The representative of the United States, raising a matter under Other Business, referred to a communication by the European Communities relating to the adoption of the European Unit of Account for the EEC Common Customs Tariff (L/4706). He stated that in view of the complexity of this matter and its potential importance in trade terms, his delegation reserved its position on the procedures the Community had followed and the possibility of returning to this matter at a later meeting of the Council, if necessary.

The representative of Canada said that his delegation was in the process of studying the implications of this matter and he reserved Canada's right to return to this matter at a later meeting of the Council, if necessary.

The Council took note of the statements.

11. Norway - Restrictions on imports of textiles from Hong Kong

The representative of the United Kingdom, speaking for Hong Kong, raised a matter under Other Business and said that following Norway's invocation of Article XIX on various textile items, Hong Kong, as a supplier having a substantial interest in the products concerned, had requested consultations with Norway under Article XIX:2 of the General Agreement. These consultations, held in Oslo in early September, had been inconclusive. His authorities were now considering what further steps could be taken in this matter and had formally requested the Norwegian authorities to provide them with details of the arrangements which would apply to imports of textiles from all sources into Norway in 1979. Hong Kong had also asked for information concerning the shares or quotas allocated to the various supplying countries, in accordance with Article XIII:3(c).

The representative of Norway confirmed that consultations had taken place with Hong Kong under the provisions of Article XIX:2, in which the parties had not arrived at an identity of views. He said that Norway was in the process of concluding consultations under Article XIX with fourteen other supplying countries. As to the modalities of the Article XIX action he stated that details were being worked out and he expected that a notification could be made shortly.

The Council took note of the statements.

12. United States - Renegotiations under Article XXVIII:1

The representative of the European Community, raising a matter under Other Business, referred to certain notifications received from the United States for renegotiations of items in the United States schedule under Article XXVIII:1. He noted that one notification concerned the conversion of specific duties into ad valorem duties affecting some 600 items. He stated that these proposals were far-reaching, as they affected on the basis of 1976 figures, about US\$5.5 billion in imports, including US\$1.1 billion of imports from the EEC. He noted that other complex changes were also being contemplated in the United States tariff system and as, in particular, the conversion of specific duties into ad valorem duties was a very complex procedure, he was doubtful whether these negotiations could be concluded before the multilateral trade negotiations were due to end. He considered that, in order not to delay the conclusion of the MTN, the conversion of the rates should take place after their completion based on the consolidation offered and accepted within the Tokyo Round.

Several other contracting parties also spoke on this matter and expressed concern that the negotiations on these matters might have an adverse effect on the conclusion of the Tokyo Round. There was also the risk that because of lack of time, the special export interests of particular countries might not be adequately taken into account. These delegations therefore fully reserved their rights under the GATT.

The representative of the United States stated that the notifications had been duly made in accordance with the provisions of Article XXVIII. His delegation was already in the process of making offers on the majority of the items concerned. While reserving his right to revert to this question at a later Council meeting, he expected to be able to respond biltaterally to the interested contracting parties.

The Council took note of the statements made.

13. Export inflation insurance schemes (C/M/126)

The Chairman recalled that at its meeting in June 1978 the Council established a panel on the question of export inflation insurance schemes. As regards the composition of the panel, the Council had authorized its Chairman to nominate the chairman and the two members of the panel in consultation with the delegations principally interested.

He informed the Council that the panel would have the following composition.

Chairman: Mr. Kröyer (Iceland)

Members: Mr. Mourão (Brazil)
Mr. Segalla (Austria)

The Council took note of the composition of the panel.