

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPORT OF THE SUB-COMMITTEE ON PROTECTIVE MEASURES

1. The Sub-Committee on Protective Measures held its second session on 28 and 29 October 1980, under the Chairmanship of Ambassador Hill (Jamaica).
2. In his introductory remarks, the Chairman recalled that the Sub-Committee's terms of reference, as determined by the CONTRACTING PARTIES in November 1979 (L/4899), required it to examine any case of future protective action by developed countries against imports from developing countries in the light of the relevant provisions of GATT, particularly Part IV thereof, and stated that this examination would be without prejudice to the rights of contracting parties under the GATT or the competence of other GATT bodies.
3. The Sub-Committee had before it two notifications: one from Australia (COM.TD/SCPM/W/3); and the other, a "reverse" notification from Chile, concerning certain measures under consideration in the United States (COM.TD/SCPM/W/4). In addition, the secretariat had put together in COM.TD/SCPM/W/2 information on a number of measures that had been taken since the July meeting of the Sub-Committee. Addendum 1 contained tariff and trade data on the measures listed on pages 4 and 5 of this document.
4. The Sub-Committee noted that the information in the secretariat note was presented, as indicated in its paragraph 4, in accordance with the understanding reached at the first session of the Sub-Committee that the inclusion of measures in secretariat documents for the Sub-Committee would be without prejudice to views delegations might have regarding the desirability of taking up for examination any such measures or on whether they fell within the Sub-Committee's terms of reference.

Reverse notification by Chile (COM.TD/SCPM/W/4)

5. The representative of Chile drew attention to a legislative proposal before the United States Congress which, if implemented, would impose charges on imports of copper to offset the cost of environmental protection measures borne by United States' producers. It was the view of his authorities that such a measure would have protectionist effects. As a major exporter of copper, Chile was particularly concerned with the proposal. The representative of Chile requested the United States delegation to provide any information that might be available on recent developments relating to this matter.

6. The representative of the United States said that the concerns of the representative of Chile contained in COM.TD/SCPM/W/4 would be transmitted to his authorities. As background, he recalled that in August 1978, the United States International Trade Commission had found that the United States domestic copper industry had been either seriously injured or threatened with serious injury substantially because of increased imports. The International Trade Commission had recommended to the President the imposition of a 300,000 ton annual global quota on refined copper imports for a five-year period. However, on 20 October 1978, the President had determined that import relief was not in the national economic interest. One reason for this decision had been that the action would have severely injured a number of developing countries which were heavily dependent on copper exports for foreign exchange earnings. He further recalled that in March 1979, two bills had been introduced in Congress, H.R. 3267 and S 799. This legislation had proposed an equalization duty on imported copper (10 US cents per pound of copper content) to offset the cost incurred by domestic copper producers in meeting domestic environmental requirements. The United States Administration had advised against enactment of this legislation. He said that there had been no recent Congressional hearings on the legislation and that on the basis of available information it was unlikely that any action would be taken in the current Congressional session. It was also uncertain at this point whether any further action would take place with respect to this legislation.

7. The representative of Chile expressed his appreciation for the information furnished by the United States representative and also for the position that the United States Administration had taken with respect to the proposed legislation.

United States measure on prepared and preserved mushrooms

8. Responding to a request for information on the decision of the United States President with regard to the recommendation of the United States International Trade Commission on prepared and preserved mushrooms as indicated in document L/5027, the representative of the United States recalled that the International Trade Commission had reported to the President its determination that mushrooms, prepared or preserved, provided for in item 144.20 of the United States tariff schedule, were being imported into the United States in such increased quantities as to be a substantial cause of serious injury. It had recommended that quantitative restrictions be imposed on United States imports of these products. On 17 October 1980, in lieu of the Commission's recommendation involving quotas, the President had decided to provide relief in the form of increased tariffs on imports of canned and other prepared mushrooms. In addition to import relief, the President had also created a White House Task Force to work with the American Mushroom Institute and other industry representatives with a view to working out appropriate technical and financial assistance to help the industry adjust to increased imports. The import duty on the mushrooms in question (TSUS 144.20) would be

increased from the current ad valorem equivalent level of 13 per cent to 33 per cent in the first year of relief and would be reduced to 28 per cent and 23 per cent, respectively, in the final two years of relief. This duty was a compound rate made up of 3.2 US cents per pound plus an ad valorem percentage. The new tariffs would become effective on or before 1 November 1980. In stating that the action would be notified to GATT in accordance with usual procedures, he reaffirmed the readiness of the United States to consult with contracting parties having a substantial interest as exporters of prepared or preserved mushrooms to the United States under Article XIX:2 of the General Agreement.

Australian measures on textiles, clothing and footwear

9. The representative of a developing country, noting that the Australian measures listed on pages 4 and 5 of COM.TD/SCPM/W/2 affected certain products in respect of which developing countries could be expected to have a comparative advantage and that most of these measures were described as being of an interim nature, requested the Australian delegation to provide information on the decisions taken, including any steps to facilitate structural adjustment and also in connexion with the temporary nature of the measures in question.

10. The representative of Australia said that the new programme of assistance to the textiles, clothing and footwear industries resulted from an inquiry by the Australian Industries Assistance Commission. The actions had been taken in the light of the difficulties being faced by these industries. It was estimated that the loss in terms of employment in the three industries due to productivity increases alone could amount to approximately 19,000 jobs by 1986 and that an additional 11,000 jobs could be lost as an indirect consequence. The textiles, clothing and footwear industries were an important part of Australian industry, employing about 9 per cent of the industrial workforce. They tended to be located in areas having limited alternative employment opportunities, and much of their labour-force consisted of women without skills that could be readily used in other occupations. Turning to the question of the interests of supplying countries, especially developing countries, he said that the three industries concerned were relatively open to foreign competition, imports accounting for 32 per cent of the market for textiles, 22 per cent for clothing and 36 per cent for footwear. It was the view of his delegation that these market penetration percentages were higher than for other comparable developed countries. The tariff quotas provided for on certain items would be subject to annual increases, taking into account any growth in the internal market. The programme of assistance contained elements aimed at encouraging the industry to adjust. For example, in the yarns' sector, bounties would be paid on the production of most items and imports would be at minimum rates and free of quotas. Incentives for the industries to adjust were clearly working since labour productivity in them was rising more rapidly than in many other industries. Part of these

incentives to restructure resulted from the open nature of the trading system, and in particular the extension of GSP treatment to many textile, clothing and footwear items not previously benefiting from preferential margins. The Australian Government considered that, while the new programme of assistance for these industries would result in improved access to the Australian market for Australia's trading partners generally, special regard had been had for the development aspirations of developing countries and for their request for preferential treatment to enable them to participate to a greater extent in the improved market access. The new programme of domestic assistance was time-limited and was designed to enable the industry to restructure in response to changing conditions.

11. Responding to requests for details of measures taken with regard to particular products, the representative of Australia said that in addition to the information contained in the documentation before the Sub-Committee, it should be noted that the developing country preferential margins to be implemented as soon as possible would generally range from 5 to 10 percentage points. With regard to a question concerning the need for tariff quotas on plastic garments that had been made subject to such quotas given the low value of trade in 1977/78 in these products as indicated in COM.TD/SCPM/W/2/Add.1, he said that it should be noted that the figures provided covered a period of little more than six months, as indicated by a footnote, and had to be assessed in the light of the size of the Australian market for these items. He said that full details of the background to, and measures resulting from, the decision on textiles, clothing and footwear could be found in the Industries Assistance Commission's report and in the relevant Government documents announcing and implementing the decision taken. In response to a request, he stated that a copy of these documents would be made available to the secretariat for inspection by interested delegations.¹

New Zealand measure on coir mats and matting

12. The representative of New Zealand, in response to a request for information on the circumstances which had led to the tariff increase on coir mats and matting, stated that the change was one of the results of a comprehensive reappraisal of the New Zealand textile industry. This review had taken more than three years to complete and had resulted in a complex package of inter-related recommendations. These recommendations had been adopted by the Government as a comprehensive textile industry plan. In general, the thrust of the changes was to open up the New Zealand market for items such as synthetic yarn, woven non-wool fabric and linen. The changes in tariff on coir mats and matting was part of an overall policy on carpets and carpeting and of a move to more uniform treatment of floor coverings other than of wool. Although the net effect of the tariff changes was to increase the m.f.n. tariff and narrow slightly the GSP margin for coir mats and matting, the GSP margin for the item remained at 17.5 per cent. The change had been simultaneous with actions which reduced tariffs on many other items. The overall

¹ These documents are held in office 2010, extension 2242.

result was a substantial liberalization of trade in the textile sector in general. In response to a request from a delegation, he offered to make available to the delegation concerned and other interested delegations, information and documentation relating to the overall review of the New Zealand textile industry by his Government.

Developments with respect to protective measures discussed at the Sub-Committee's July 1980 meeting

13. The representative of the United Kingdom, speaking on behalf of Hong Kong, recalled the statement made by his delegation at the July 1980 meeting of the Sub-Committee in relation to certain EEC measures in the mushroom sector (COM.TD/SCPM/1, paragraph 12). He noted that there had been no effective change in the situation since that meeting. Hong Kong remained deeply concerned about the action which his authorities considered to be discriminatory in nature and inconsistent with the provisions of the General Agreement. However, consultations were being held between the two parties, and it was the hope of his delegation that a satisfactory solution would be found. He reserved the rights of his delegation under Article XXIII of the General Agreement in the event that bilateral consultations failed. He expressed the wish that the matter remain on the agenda for the next meeting of the Sub-Committee. The representative of the European Communities indicated that his position on this measure was reflected in the report of the July meeting of the Sub-Committee and confirmed that consultations were being held with the Hong Kong authorities on this matter.

Other matters

14. In response to an inquiry, the representatives of Australia, the European Communities, Japan and New Zealand confirmed the non-discriminatory nature of the measures listed on pages 4 and 5 of COM.TD/SCPM/W/2. The representative of the United States indicated that this was also the case in respect of the recent decision of his Government on prepared or preserved mushrooms. Some delegations of developing countries, while noting the importance of the non-discriminatory principle of GATT, urged developed countries to give attention to ways of providing special and differential treatment for developing countries, such as through the provisions of the Enabling Clause and the application of the GSP, when applying protective measures to imports of products of interest to developing countries. The representative of a group of developed countries, commenting on the general nature of the Sub-Committee's work, said that the Sub-Committee's mandate was to examine protective measures in the light of the relevant provisions of GATT, particularly those of Part IV. It was not the function of the Sub-Committee to prejudge the interpretation of any provision of the General Agreement.

15. The representative of a developing country said that the particular focus of the Sub-Committee's work should be the impact of measures on the trade interests of developing countries, especially in terms of Part IV of the General Agreement. Irrespective of the legal position of a measure with regard to the provisions of GATT, the Sub-Committee should examine whether Part IV, particularly the commitments provided for in Article XXXVII, had been fully taken into account and "special regard" had for the trade interests of developing countries. It was important that the examination in the Sub-Committee should be carried out in such a way as to draw the attention of delegations concerned to possibilities that might be available to reduce or eliminate the impact of the measures under consideration on the trade of developing countries.

16. The representative of a developed country reiterated the importance his authorities attached to the verification of background documentation with the governments concerned to ensure accuracy. It was also important that information be presented in such a way as would facilitate drawing accurate conclusions from it. He said that his delegation would further discuss these points with the secretariat at a convenient time. The representative of the secretariat stated that the secretariat had done its best to discharge its functions of providing information on the basis of data available from official sources and checking it as necessary for accuracy with the delegations concerned. The material made available by the secretariat for the Sub-Committee resulted from a continuing dialogue with the delegations concerned. The secretariat was, of course, ready to further continue and intensify this dialogue as necessary.

Next meeting of the Sub-Committee

17. The Sub-Committee agreed that the Chairman, in consultation with delegations and the secretariat, would fix the date for the next meeting of the Sub-Committee, taking into account the points made on frequency of the Sub-Committee's meetings at the March 1980 meeting of the Committee on Trade and Development.