

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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TURKISH STAMP DUTY

Report of the Working Party

1. On 20 July 1963 the CONTRACTING PARTIES decided to waive the provisions of paragraph 1 of Article II of the General Agreement to allow Turkey to impose a stamp duty of 5 per cent ad valorem on imports of products included in Schedule XXXVII. The waiver was valid until 31 December 1967. (BISD, Twelfth Supplement, page 55.)
2. On 11 November 1967 the CONTRACTING PARTIES decided to amend and extend the waiver of 20 July 1963 by waiving the provisions of paragraph 1 of Article II of the General Agreement to allow Turkey to impose a stamp duty, the rate of which was not to exceed 15 per cent ad valorem on imports of products included in Schedule XXXVII. The waiver is valid until 31 December 1972. (BISD, Fifteenth Supplement, page 90.)
3. On 10 April 1969 Turkey notified (L/3196 and Add.1) that Article 2 of Law 828 concerning the import stamp duty had been amended so as to increase the maximum permitted stamp duty from 15 per cent to 25 per cent ad valorem on all imports, except for certain very exceptional cases where the rate is increased to 100 per cent. The terminal date of 31 December 1972 for the maintenance in force of the stamp duty remained unchanged. Turkey requested that the Decision of 11 November 1967 be amended accordingly.
4. The Council agreed at its meeting of 21 May 1969 (C/M/54) to establish a working party to examine the Turkish request, and in this connexion to consult with the International Monetary Fund and to report back.
5. In the course of its meetings on 4 and 8 July 1969, the Working Party under the chairmanship of Mr. Petrie (Canada) examined the request by Turkey for an amendment of the 1967 waiver. Since the Council agreed that the Working Party should give appropriate attention to the deliberations of the Balance-of-Payments Committee, this report should be read in conjunction with the report of the Committee on the regular Article XVIII:B consultation with Turkey contained in BOP/R/34.
6. In accordance with the terms of reference of the Working Party to consult with the International Monetary Fund, the representative of the Fund was invited to make a statement concerning the position of Turkey. The statement was as follows:

"The Fund invites the attention of the CONTRACTING PARTIES to the Executive Board decision of June 27 1969 at the conclusion of its most recent Article XIV consultation with Turkey, particularly to paragraphs 5 and 6 which read as follows:

'5. The balance of payments on current account deteriorated sharply in 1968. Imports rose by 12 per cent, but exports declined by 5 per cent. The reduction in exports reflected certain marketing difficulties in respect of traditional exports, but non-traditional exports also registered a decline. Workers' remittances rose and there was some improvement in earnings from tourism. To keep outgoing payments within the limits set by current earnings and the inflow of foreign capital, Turkey was compelled to tighten quantitative and cost restrictions on payments for imports and other transfers. In 1969, further measures have been taken to stimulate exports and there has been some additional tightening of external restrictions. In order to strengthen the balance of payments and reserve position, the Fund urges that more positive measures should be taken to direct investment policy toward production for export and considers that the complex trade and payments system should be reformed.

'6. The Fund does not object on a temporary basis to the multiple currency practices presently in effect in Turkey, and will review them not later than on the occasion of the 1969 Article XIV consultation with Turkey. The Fund notes that a bilateral payments agreement with a member has been terminated, but urges that the remaining two agreements be terminated at an early date.'

"On June 27, 1969, the International Monetary Fund approved a stand-by arrangement for the Government of Turkey, authorizing the purchase of up to \$27 million in foreign currencies over the next twelve months. The new stand-by arrangement follows a \$27 million arrangement which expired in December 1968. This latest stand-by arrangement - which will supplement existing external reserves - is in support of a programme which gives high priority to the maintenance of price stability. A tighter control of credit has been instituted and Turkey has also introduced new tax measures, estimated to increase government revenue by 8 per cent, and plans to meet budgetary expenditures from non-inflationary sources of revenue. The government is also taking measures to stimulate exports.

"The general level of restrictions on imports by Turkey, and the 25 per cent stamp duty, which are under reference, do not go beyond the extent necessary at the present time to stop a serious decline in its monetary reserves."

7. In his opening statement, the full text of which appears in the Annex II to this report, the representative of Turkey said that the reasons for the increase of the rate of the stamp duty to a permitted maximum of 25 per cent had been explained in his statement at the Council on 21 May (L/3196 and Add.1) and at the meeting of the Committee on Balance-of-Payments Restrictions (BOP/R/34). He wished to repeat that with imports exceeding the level foreseen in the annual programmes the Turkish authorities had been forced to take additional measures.

The purpose of the measures was to keep imports at a level commensurate with present external payment possibilities. The increase in the rate of the stamp duty was less restrictive than alternative measures, such as severe quantitative restrictions or the reduction of items in the liberalized lists, which could have had a disruptive effect on the volume and traditional pattern of Turkey's foreign trade.

8. Sympathy was expressed in the Working Party for the internal and external economic difficulties facing Turkey. Members of the Working Party accepted the view that for the time being Turkey needed to rely on the present level of restrictions. However, the comment was made by one member that the 25 per cent stamp duty was a significant additional charge on imports, when considered in relation to the level of tariffs already in force.

9. In view of the conditions of the existing waiver of 11 November 1967, regret was expressed that the Government of Turkey had not been able to notify their intention to increase the rate of the stamp duty before the measure's entry into force. It was pointed out that there were procedures whereby contracting parties could be informed of a country's need to take action in such circumstances without the information becoming public. Such was the case when tariff action had to be taken under Article XXVIII. The representative of Turkey explained that his Government was unable to prejudge a decision by Parliament. He felt that a notification previous to the entry into force of the measure would have brought about speculative imports. Nonetheless, he would convey to his authorities the views expressed on this matter.

10. In reply to questions the representative of Turkey pointed out that the stamp duty was not intended to be - and would not be retained in the future as - a source of revenue. If the problem had been one of obtaining additional revenue his Government could, like in the past, use alternative methods such as increasing the tax on domestic production or the tax on monopoly goods. The additional revenue obtained from the stamp duty was incidental to the purpose of his Government to dampen the excessive growth of imports. The stamp duty was only one in a spectrum of other measures taken to secure a reasonable rate of growth while maintaining the internal stability of the economy.

11. Some members expressed concern at the increase in the rate of the stamp duty to 100 per cent for certain goods, the importation of which was contrary to Turkish laws and regulations, in the circumstances set out in pages 5 and 6 of document L/3196/Add.1. In reply to questions on the 100 per cent stamp duty the representative of Turkey said that it was an exceptional rate of duty which applied only to prohibited imports, in most cases to products not included in the liberalized and general quota lists. Such imports were commodities which had been brought to customs warehouses notwithstanding or contrary to the provisions of the customs law, the foreign trade regulation, or the legislation pertaining to the protection of the value of Turkish currency; or commodities sold when customs warehouses were cleared in accordance with the provisions of the customs law; or imports related to the transfer of wealth from abroad in accordance with the pertinent laws, decrees or other legislation. This rate of the stamp duty

only affected a negligible volume of total imports amounting to less than 0.5 per cent of imports. It could not be considered as an additional restriction since it actually permitted the importation of products which could not have entered the country otherwise. In reply to further questions he added that the 100 per cent rate could not be imposed on permitted imports which were not cleared through customs within the normal period.

12. With regard to a question concerning imports by immigrants, he said that immigrants could bring in free of duty, including the stamp duty, certain specific commodities such as machinery and tools used in their own trade. However, additional commodities purchased by them abroad would be subject to the 100 per cent rate when imported. It was pointed out that in view of the strong pressure of demand there was a certain danger that violations of import rules could be provoked by existing restrictions.

13. In reply to this and other questions, the representative of Turkey said that imports had increased in spite of the increase in the stamp duty to 15 per cent. Thus, total imports had passed from \$572 million in 1965 to \$764 million in 1968. In the same period, imports of bound items had increased from \$307 million to \$442 million. Therefore, the Turkish Government felt that, in the same manner, the increase of the rate to 25 per cent would not decrease the volume of imports or provoke violations of import rules.

14. The view was expressed in the Working Party that every effort should be made by the Government of Turkey to reduce or eliminate the stamp duty at the earliest date possible. The representative of Turkey said that the stamp duty was a temporary measure and that its reduction or elimination before 31 December 1972 depended on future economic conditions.

15. In the light of the conditions of the existing waiver the view was also expressed that it would be appropriate for the Turkish Government to keep under review the present measure and to consult with the CONTRACTING PARTIES before the terminal date. It was pointed out that since the stamp duty measure was tied to balance-of-payments considerations it would be these considerations that should determine the timing of such consultation. The representative of Turkey said that the stamp duty measure was effectively related to balance-of-payments considerations and that his Government was prepared to be flexible regarding the suggestion to consult before the terminal date. He believed that the most appropriate time to consult with the CONTRACTING PARTIES would be during his country's next consultation in the Balance-of-Payments Committee in 1971. The view was also expressed that while the appropriate time would be that of the next Balance-of-Payments consultation, the consultation on the stamp duty should be conducted separately therefrom.

16. The point was made that the waiver requested by Turkey should clearly state that the level of 25 per cent stamp duty was a maximum and that the only exception to this would be the commodities covered by Article 2 of Law 828, as amended by

Article 36 of Law 1137, as indicated on page 3 of document L/3196, the normal entry of which is, under circumstances defined in Turkish law and regulations, not now possible. The Working Party recognized that this exception to the 25 per cent rate was marginal and therefore felt that it would not be necessary at this time to make special provision for this exceptional derogation to the provisions of Article 2. In response to a request the representative of Turkey agreed to the inclusion of a statement on the volume of imports subject to the 100 per cent rate of stamp duty in Turkey's annual report to the CONTRACTING PARTIES. The Working Party considered that a significant expansion of the volume of these imports might make it necessary to reconsider the question.

17. It was suggested that since paragraph 1 of Article 2 of Law 828, as amended by Article 36 of Law 1137 (L/3196/Add.1, page 5), authorizes the Council of Ministers to determine the rate of the stamp duty without having to proceed to a further amendment of that Law, the second paragraph of the Terms and Conditions of the 1967 Waiver (BISD, Fifteenth Supplement, page 92) should be re-worded so as to call upon the Council of Ministers to reduce the stamp duty rate should this be possible.

18. It was also suggested that the phrase "without imperilling the success of the Turkish Five-Year Plans" (BISD, Fifteenth Supplement, page 92, second paragraph of "Terms and Conditions"), should be replaced by some reference to the requirements of the Turkish balance-of-payments situation. The success or failure of the Five-Year Plans could not be said to depend solely on the stamp duty.

19. The Working Party has prepared and submits to the Council the attached draft decision (Annex I hereto).

Annex I

TURKEY - STAMP DUTY

Draft Decision

Considering that the CONTRACTING PARTIES decided on 20 July 1963 to waive, subject to specified terms and conditions, the provisions of paragraph 1 of Article II of the General Agreement to the extent necessary to allow the Government of Turkey to maintain, as a temporary measure, the Stamp Duty of 5 per cent ad valorem imposed by Law 185 on all imports into Turkey of products included in Schedule XXXVII:

Considering that the CONTRACTING PARTIES decided on 11 November 1967 to waive, subject to specified terms and conditions, the provisions of paragraph 1 of Article II of the General Agreement to the extent necessary to allow the Government of Turkey to maintain as a temporary measure, the Stamp Duty the rate of which was not to exceed 15 per cent ad valorem imposed by Law 828 on all imports into Turkey of products included in Schedule XXXVII;

Considering that the Government of Turkey has informed the CONTRACTING PARTIES that, pursuant to Law 1137 of 27 March 1969, which amends the aforementioned Law 828, the maximum rate of Stamp Duty chargeable is increased from 15 per cent ad valorem to 25 per cent ad valorem;

Considering that the Stamp Duty is inconsistent with the provisions of Article II of the General Agreement in so far as it applies to products with respect to which Turkey has assumed obligations under that Article which are specified in Schedule XXXVII annexed to the General Agreement;

Considering that the Stamp Duty is designed to meet an emergency situation and is specifically designed to safeguard Turkey's external financial position and balance of payments;

Considering the assurances of the Turkish Government that it is not the intention to apply the Stamp Duty for the purposes of reducing imports, nor to provide additional protection to domestic industry, but solely to contain within manageable limits the rate of increase of such imports in relation to exports, which increase, if not restrained, would seriously threaten Turkey's external financial position;

Considering the statement of the Turkish Government that there is no alternative measure available to it to achieve its purposes which would not also require a reduction of global quotas and of the items on the Liberalized List;

Considering that the Government of Turkey undertakes to keep the operation of the Stamp Duty under constant review; if possible to suspend it; but, in any case, to maintain the rate at as low a level as possible commensurate with the necessity to stop a serious decline in its monetary reserves.

Taking note of the view of the International Monetary Fund that the general level of restrictions on imports by Turkey and the 25 per cent Stamp Duty do not go beyond the extent necessary at the present time to stop a serious decline in its monetary reserves;

Considering the view of the Turkish Government that the exemption from Stamp Duty of the products with respect to which Turkey has assumed obligations under Article II of the General Agreement would result in an economically damaging distortion of the pattern of Turkish imports;

Taking note of the willingness of the Government of Turkey to consult with the CONTRACTING PARTIES pursuant to this Decision;

The CONTRACTING PARTIES, acting pursuant to the provisions of paragraph 5 of Article XXV of the General Agreement and in accordance with the procedures adopted by them on 1 November 1956;

Decide to waive, subject to the terms and conditions specified hereunder, the provisions of paragraph 1 of Article II of the General Agreement to the extent necessary to allow the Government of Turkey to maintain, as a temporary emergency measure, on imports into Turkey of products included in Schedule XXXVII a Stamp Duty the rate of which will not exceed 25 per cent ad valorem permitted by Law 828 of 13 February 1967, as amended by Law 1137 of 27 March 1969.

Terms and conditions

1. The Stamp Duty shall not exceed 25 per cent of the value of the imported goods as assessed for the imposition of customs duty.
2. The Government of Turkey shall keep the balance-of-payments situation under review and, should the situation so change as to permit the removal or reduction of the Stamp Duty on products specified in Schedule XXXVII, the Government of Turkey shall promptly take the necessary steps to remove or reduce the Stamp Duty.
3. The Government of Turkey shall, following the 1971 consultation under Article XVIII:B with Turkey, consult with the CONTRACTING PARTIES in relation to the continued maintenance of the Stamp Duty, taking into account any changes in the application of this Stamp Duty on individual products. The Government of Turkey shall, in any event, annually submit to the CONTRACTING PARTIES a report on the application of the Stamp Duty with particular regard to the need for its continued application and the possibility of its reduction or elimination.

4. This Decision shall not extend beyond the date on which the Stamp Duty maintained under this Decision shall have been removed or 31 December 1972, whichever date is the earlier.
5. If any contracting party considers that the effect of the Stamp Duty maintained under this Decision is unduly restrictive and that damage to its trade is caused or threatened thereby, it may make representations to the Government of Turkey, which shall accord sympathetic consideration to such representations and afford that contracting party adequate opportunity for consultation.
6. If such consultation does not lead to satisfactory results, the contracting party concerned may request the CONTRACTING PARTIES to invite Turkey to enter into consultations with them. If, as a result of these consultations with the CONTRACTING PARTIES, no agreement is reached and if they determine that the effect of the Stamp Duty is unduly restrictive and that serious damage to the trade of the contracting party initiating the procedure is threatened or caused thereby, the latter will be released from its obligations to apply to the trade of Turkey concessions initially negotiated with Turkey to the extent that the CONTRACTING PARTIES determine to be appropriate in the circumstances.

Annex II

STATEMENT BY MR. SERMET R. PASIN, HEAD OF THE TURKISH DELEGATION
TO THE MEETING OF THE WORKING GROUP ON THE TURKISH STAMP DUTY

At this morning's meeting of the Committee on Balance-of-Payments Restrictions in which the majority of the Working Group members also took part, I attempted to further clarify the present balance-of-payments situation of Turkey and I gave some information with regard to the various measures introduced in order to alleviate the pressure on our external payments.

I particularly tried to indicate that the rise of imports had exceeded the level of foreseen programme imports, in spite of the restrictive system presently applied and the previous stamp duty rate of 15 per cent.

Thus, with the demand for imports constantly increasing at rates exceeding the levels foreseen in the Annual Programmes, the Turkish authorities were forced to take additional measures and instead of imposing additional quantitative restrictions or reducing the degree of liberalization, they chose to increase the stamp duty rate from 15 to 25 per cent.

As I have indicated at the meetings of the Council on this subject, the purpose of the increase in stamp duty is not to reduce imports below their present level, but rather to keep such imports, and especially liberalized imports, at a level commensurate with present external payment possibilities and within the targets set by the Annual Programmes.

The fact remains that imports in 1969 will certainly exceed the level realized in 1968 which was \$764 million. The programmed level of imports for 1969 is \$860 million and the actual results in the first five months of this year already indicate a significant increase.

I wish also to reiterate the fact that this is an across-the-board measure applying to all imported commodities. There is no discrimination whatsoever among countries or among commodities; it is not designed to protect domestic production.

Finally, I wish to stress the fact that the temporary nature of this measure is maintained. The terminal date for the stamp duty remains 31 December 1972 as was the case when the previous rate applied.

As I indicated this morning, the major preoccupation of the Turkish authorities is to realize its development in stability, and all the measures introduced are geared to this consideration. The stamp duty measure is no exception to the rule. It is felt that, under the present circumstances, it is the most appropriate measure to permit Turkey to pursue its economic development while maintaining economic stability and precluding a further aggravation of the balance-of-payments situation. Alternative measures would, perforce, have been more

restrictive and have had a disruptive effect on the volume and traditional pattern of our foreign trade. Consequently, considering the present level of monetary reserves and the adverse trend in our balance of trade, we feel that this measure does not go beyond what is necessary to alleviate the pressure on our balance of payments, and to maintain the internal stability of the economy.

It is on this basis that I was instructed by my authorities to request from the Council, pursuant to paragraph 5 of Article XXV of the General Agreement, an amendment of the waiver granted on 11 November 1967, to the extent necessary to permit us to raise the stamp duty on imports to 25 per cent.

I feel confident that, in the light of the discussion which we had this morning on the balance-of-payments situation of Turkey, this Working Group will report favourably to the Council with respect to the stamp duty measure we have introduced.