

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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UNITED STATES IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS

Report of the Working Party

1. The Working Party met on 23 February 1970 and has examined the fourteenth annual report (L/3302) submitted by the United States Government under the Decision of 5 March 1955, on import restrictions in effect under Section 22 of the United States Agricultural Adjustment Act as amended, on the reasons for the maintenance of these restrictions, and on the steps taken with a view to a solution of the problem of agricultural surpluses. On the basis of the report and with the assistance of the representative of the United States, the Working Party has reviewed the action taken by the United States Government under the Decision.
2. Introducing the report, the representative of the United States said his Government regretted the necessity for its import restrictions in the same sense that it regretted import restrictions imposed by other countries. Unfortunately, trade barriers were commonplace, especially for dairy products, for which most major importing countries found it necessary to regulate at least part of their imports. The import restrictions on the four commodities covered in the report existed and had remained in force because they were necessary. For each of these commodities, his Government was engaged in costly support operations, each was in a position of commercial surplus, and in each case freely admitted imports would result in additions to Government-held stocks. It was not realistic to expect that the United States Government or any other similarly placed government, could tolerate such a situation. He was however ready to note and convey to his authorities any criticism and comments, and answer any questions.
3. The Working Party was grateful for the comprehensive information contained in the report submitted by the United States and for the introductory comments given by its representative.
4. Several members of the Working Party recalled that the waiver included the condition that the United States would remove or relax each restriction permitted under the waiver as soon as it found that the circumstances requiring such restriction no longer existed or had changed so as no longer to require its imposition in its existing form. They noted that apart from minor relaxations several years ago on some dairy products, the efforts of the United States towards the removal or relaxation of these restrictions had been insufficient. They regretted that in

certain cases, restrictions had been extended in coverage or intensity; in the period under review none had been relaxed. They considered that performance under the waiver had been unsatisfactory, and had impaired tariff concessions and impeded progress towards the objectives of GATT. They expressed concern at the continued imposition of restrictions under the waiver which had been granted fifteen years previously.

5. Recalling earlier statements by the United States that some measures covered by the waiver might be justified by other provisions of the GATT, several members expressed the hope that the question of the continuance of the waiver and the restrictive measures maintained under it would be dealt with in the context of the work being undertaken in GATT. They felt that the relinquishing of the waiver would be a step towards the objectives of this work.

6. A member also pointed out that producer organizations in his country were very much aware of the existence of the waiver and the power it gave one country to protect itself against certain imports; it was difficult to explain to them why their country could not be given the same power. Another member added that United States policies with respect to the waiver had fallen short of the objective of continuous trade liberalization; he felt that the report had not always gone deeply enough into the true causes and remedies of surpluses.

7. A further member observed that United States agricultural policies presented an internal contradiction. On the one hand, the United States, basing itself on the principle of free competition and efficiency, claimed for certain of its products the description "competitive" and the right to occupy in world markets the place previously held by other countries. On the other hand, for products not in that position, it applied restrictive measures which reserved nearly the whole of its large internal market to domestic production. In this connexion this member gave soybeans and groundnuts as an example.

8. The discussion subsequently concentrated on dairy products. Members of the Working Party particularly regretted the lack of progress in this sector. They pointed to the increases in support levels in the United States over recent years, the high prices to the consumer and the downward trend in consumption. They suggested that the United States might consider domestic measures which would enable it to fulfil the conditions of the waiver, and to consider replacing import restrictions by other, less stringent and more flexible and selective measures. They recognized that liberalizing action by the United States was made more difficult by the adverse conditions in world dairy trade. They felt, however, that the United States could make a substantial contribution to improving world conditions, by relaxing its import régime. They pointed to the improved situation in the United States market which now appeared to be in balance, with governmental stocks low and prices high and at or above support levels. They appealed to the United States to take steps to ease trade in dairy products and to relax restrictions on these and other products before the next report under the waiver.

9. Several members found it difficult to accept as sufficient justification of the maintenance of import restrictions, the argument that "in the absence of import controls, foreign surplus dairy production would flood the United States market, in large measure by reason of heavy export subsidies, and would replace domestic production to the serious impairment of the dairy support programme" (L/3302, page 17). Pointing to the small size of dairy imports into the United States, which, in their view, constituted an insignificant percentage in relation to that country's domestic production, they doubted that such imports could materially interfere with the operation of support programmes. A member added that even assuming that this argument were valid for imports of dairy products taken as a whole, it might not be valid for individual products, such as certain cheeses or chocolate crumb. Another member observed that if the percentage of imports in relation to total production called for restrictions in the dairy sector, there was a danger that the same percentage might be invoked as a triggering point for restrictions in other sectors of the United States economy which felt they were in difficulties.

10. Members of the Working Party noted the statement by the United States representative that heavy subsidies were often used in exports of dairy products, and understood the desire of the United States to protect itself from such exports. Several members felt however that the import restrictions as applied by the United States were too blunt an instrument which tended to hit also those suppliers who did not subsidize their exports. Recalling the declaration by the United States that it did not wish to interfere with normal trade in dairy products, these members therefore suggested that the United States authorities might consider making the import system more selective, so as to ease access for non-subsidized exports and for products such as cheese, for which a growing demand existed in the United States. One member pointed out that the waiver had not been granted for the purpose of protecting the United States market from subsidized exports: it had been granted to allow the United States time to solve its own surplus problems. The General Agreement provided other safeguards against subsidized exports, in particular countervailing duties, and their use would be more appropriate in present circumstances than the maintenance of quotas under waiver. Another member, referring to countervailing duties commented that in cases of difficulties of the kind underlying the United States restrictions it would be more appropriate to seek solutions based on co-operation between contracting parties rather than through measures which, though permitted under the GATT, tended to strain relations between contracting parties.

11. A member, although critical of the fact that the United States had found it necessary to introduce new restrictions on cheeses when consumption of these products was rising, appreciated the benchmark price system introduced in 1968 which allowed restriction free entry for certain cheeses at or above a certain price, and felt that the application of such a system to other cheeses presently under restriction might also be usefully considered. Some members observed that the level of the benchmark price for cheese had been set too high and had adversely affected their trade. One of these members added that as a result, United States domestic production was being protected at prices well above the support price. If this matter had been reviewed after the 1968 report of the Working Party what were the reasons for maintaining the level at 47 cents per lb.?

12. Some members pointed out that the overall quotas for certain products, in particular some dried milk products, were of a minimal size, only a few thousand pounds, which excluded any imports on a normal commercial basis. Other members pointed to the small size of their quotas for cheese. Members expressed the hope that the United States would look favourably on requests by countries to enlarge the quotas.

13. Referring to the marginal character of United States dairy imports, one member pointed out that even at the time of the introduction of the emergency measures on cheese in September 1968, when imports of dairy products were running at peak level, total imports only corresponded to an annual level of the equivalent of 2.8 billion pounds of milk, or about 2.5 per cent of total domestic milk production, and that the average figure for the year as a whole would certainly be much lower. The expected measures had probably caused some advance stockpiling by the industry; his country, for one, had at least experienced a significant drop in its cheese exports to the United States during the nine months period that followed after the introduction of the restrictions.

14. A member recalled the concessions negotiated by three countries in 1947 and 1949 with the United States for a tariff quota of 60 million pounds of butter. The present annual butter quota was only 707,000 pounds, i.e. less than 2 grammes per capita for the United States population, and this quota could in his opinion be raised considerably without interfering with the United States support programme. Furthermore, he pointed out that his country persistently had a large deficit in its overall trade with the United States, a fact that should also justify relaxation of the present rigid restrictions in this field.

15. A member of the Working Party stated that the restrictions introduced in 1969 on imports of chocolate crumb into the United States were causing his country undoubted material damage. The problem was presently under discussion between the United States and his authorities, who had noted that it was not the wish of the United States to interfere with normal trade. In the view of his authorities the restrictions on chocolate crumb were not consistent with the terms or spirit of the waiver. They still hoped for a bilateral solution but, failing this, they reserved the possibility of taking appropriate action under the General Agreement. Elaborating on the question, he stated that the increase in imports of this product into the United States during the last three years did not constitute sufficient reason for the imposition of restrictions, since, in terms of milk solids content, imports represented only 0.05 per cent of that country's domestic milk consumption according to the report of the United States Tariff Commission. It was difficult to see how such imports could materially interfere with the dairy support programme. There was no question of avoiding restrictions on other dairy products, since the product exported by his country could not be broken down into its original constituents. Moreover the manufacturers of this product received no subsidies of any kind and the increase in imports was a result of increased demand from United States manufacturers for a competitive product.

16. The Working Party noted the statement made by the representative of Nigeria at the meeting of the Council on 22 January. In that statement the representative of Nigeria, recalling the specific proposals he had made in the Agriculture Committee, appealed to the United States to increase its import quota for ground-nuts and to take the action necessary to avoid the disruption of international trade by disposals of surpluses.

17. Replying to the various points made, the representative of the United States said that the waiver had been granted under the rules of the GATT. His authorities had always acted in accordance with its provisions, and with those of the waiver; and had accordingly reported and consulted each year. He pointed out that other countries maintained restrictions, including in particular restrictions on dairy products. Most of the restrictions were not being discussed and consulted upon in GATT. It would be in the interests of the objectives of the GATT if other contracting parties were as ready to report and consult as the United States had always been.

18. Noting that most of the discussion had centred on dairy products the representative of the United States pointed to the world-wide problems in this sector. These circumstances had forced the United States to maintain import controls. The United States dairy market was today in better balance than it had been when the waiver was granted. The decline in consumption of certain dairy products during those years was largely due to changes in dietary habits, which had also occurred in most West European countries and others. The improved domestic supply-demand situation represented progress, in which import controls had played an essential part. However, under the present world market circumstances, one could not expect the United States to try to solve the problem alone.

19. When the United States had introduced the quota system, he went on to explain, it had tried to apply it selectively to particular problems so as not to disrupt genuine trade. Exporters had, however, managed to increase their exports by changing to dairy products not covered by the control, or by inventing new products. His authorities had therefore been forced to take action against sudden increases in imports. While imports might appear to be small in relation to production, they would, if allowed to enter freely, have interfered with the support programmes by displacing domestic milk production and incurring additional governmental expenditures.

20. Commenting on the general statements of the members of the Working Party, the representative of the United States pointed out that his Government had considered making use of other measures available under the GATT, which it possessed the authority to apply. However, these other measures had been considered to be less suitable than those chosen. The United States would have had to impose a countervailing duty in respect of all subsidized exports of that product, to the full amount of such subsidy granted by each exporting country, so that such measures would not have provided a reasonable access to the market for traditional exports. The United States representative pointed out also that

once a request for countervailing duty action was made, the procedure became automatic and the United States authorities responsible for trade matters had no longer any control of the situation. Further he noted that such a measure would not provide adequate protection against market disorganization brought about by subsidized exports and the subsequent effect on world prices for dairy products. His authorities had therefore chosen a quota system based on a representative period. Although it had involved certain problems, the system had worked equitably on the whole.

21. Referring to cheese, the representative of the United States said that the level of the 47 cents per lb. f.o.b. benchmark had been reviewed before the 1969 proclamation had been issued, and had been found not to be too high. Exports to the United States had continued, and some countries had in fact increased their prices to just above the stipulated level. The rule which limited the quantities of any type of cheese that could be imported by any one importer, to 30 per cent of the total annual quota of a particular country had been discontinued.

22. Turning to the problem of chocolate crumb, the representative of the United States stated that imports of this product had risen from 2 million lb. in 1965 to 45 million lb. (equivalent to 111 million lb. of whole milk) in 1968. Such imports would interfere with the United States dairy programme and were regarded by his authorities as a circumvention of import controls. The argument that the imports represented only a small fraction of production were neither pertinent nor valid. It ignored the fact, borne out by experience, that it was impractical to view imports of particular products in isolation, because of the cumulative effects of imports and because such an approach invited a shift in trade towards uncontrolled products. In view of the rapidly rising imports and strong domestic pressures his authorities had no option in 1969 but to increase protection; the quota was however set at a higher level than that recommended by a majority of the Tariff Commission.

23. In his concluding remarks, the representative of the United States stated that his authorities shared the concern expressed by members of the Working Party as to the continuation of the waiver and the restrictions under it, especially as regards dairy products. The United States sincerely wished that it did not have to restrain its imports. The United States would like to see a situation in which, in the absence of import controls, the level of imports would be determined by real market needs, and where it would not be faced with excess imports causing Government stocks of domestic production to be increased at considerable cost. As regards the duration of the waiver, the question must be put whether the world dairy market, for instance, was in a better condition than it had been when the waiver was granted? The United States was utilizing its supplies which were in excess of commercial demand for welfare and special feeding programmes domestically and abroad, in a way to create additional consumption. The world situation, marked by growing surpluses and price wars, was not of its doing. Was it reasonable then to expect the United States to abandon its controls to become virtually the only open market in the world

and to take over and pay for the excess supplies in world dairy markets? Until there is a general and equitable reduction in governmental trade controls, the United States has no choice but to protect itself as other countries do, but it is doing so with the greatest possible restraint and moderation. In conclusion, the representative of the United States thanked the members of the Working Party for their co-operative attitude and assured them that he would pass on to his authorities all the comments and requests they had made.

24. Certain members of the Working Party felt it was not within its competence to assess whether or not the United States had a share in the responsibility for the existence of dairy product surpluses in the world market.

25. Members of the Working Party noted the various statements of the representative of the United States and recognized the difficult situation with which the United States Government was faced. They recognized also that there were grave problems in international trade in dairy products which were already under consideration in other bodies in the GATT. Nevertheless they hoped that solutions could be found which would assist the United States in the removal of restrictions on imports and they expressed continuing concern, as they had during the 1968 meeting of the Working Party, that the United States had found it necessary to introduce further import restrictions on products in the dairy sector during 1969.

26. The Working Party reiterated its gratitude to the United States Government for the comprehensive information provided in its report, and expressed its thanks to the representative of the United States for his very helpful co-operation, his exhaustive replies, and for his readiness to report the views and requests of the other members of the Working Party to his authorities.