

GENERAL AGREEMENT ON TARIFFS AND TRADE

SECRET

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AGREEMENT BETWEEN FINLAND AND HUNGARY

Report of the Working Party

1. At the meeting of the Council on 21 June 1974 (C/M/98) the CONTRACTING PARTIES were informed that on 2 May 1974 Finland and Hungary had signed an Agreement on the reciprocal removal of obstacles to trade, taking into consideration the provisions of Article XXIV of the General Agreement.
2. In accordance with the notification procedures, the parties to the Agreement transmitted to the secretariat the text of the following legal instruments, which was subsequently circulated to contracting parties with document L/4136/Add.1:
 - Agreement between the Republic of Finland and the Hungarian People's Republic on the reciprocal removal of obstacles to trade, together with the Protocols and Annexes forming integral parts thereof.
3. At the meeting of the Council on 3 and 7 February 1975 (C/M/103) a Working Party was set up with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Agreement between Finland and Hungary signed on 2 May 1974; and to report to the Council."
4. The Working Party met on 29 September and 1-3 October 1975 under the chairmanship of Ambassador G.L. Easterbrook-Smith (New Zealand). It had available the text of the Agreement, and the replies by the parties to questions asked by contracting parties (L/4195).

I. GENERAL CONSIDERATIONS

5. In an introductory statement the representative of Finland referred to the preamble of the Agreement, where the desire of the signatories to the Agreement was expressed to solve in a fair and equal way the problems arising from the contemporary European integration processes and to do this in accordance with their international obligations. He recalled that the region of Europe was the main market for Finnish

exports and also the main source of Finnish imports. When the process of regional integration in Western Europe led to an enlargement of the European Communities Finland had to secure its competitive position through a free-trade agreement with the European Communities. To avoid the consequential and foreseeable distortions in the trade with the European socialist countries Finland invited these countries to enter into negotiations on similar arrangements. He emphasized very clearly that two preconditions were set for these agreements. The first and the most important was that they should be strictly consistent with Finland's international obligations and notably Article XXIV of the GATT. The second was that the agreements should be based on mutual advantage. He stated that in his view the provisions of the agreement fully complied with the provisions of GATT. They included methods and a time-table for the elimination of tariffs on substantially all the trade. With a few exceptions the time-table and the product coverage of the normal and the slower time-table for the elimination of tariffs were the same as in the similar agreement between Finland and the EEC. The product coverage of the agreement was enough to justify the view that the Agreement covers substantially all the trade.

6. The representative of Hungary stated that his country was very satisfied to have concluded a free-trade agreement with Finland, and that he was fully prepared to have the Agreement examined in this Working Party in the light of Article XXIV.

7. One member of the Working Party, supported by some other members, stressed the need to have the Agreement examined thoroughly. This was especially true since a new type of free-trade agreement, concluded between one market-economy country and one centrally-planned economy State-trading country, constituted a new experience in GATT. One important question in this context was whether customs duties were the only relevant instrument of Hungarian foreign trade policy. Some of these members expressed concern about arrangements discriminating against third countries. One member of the Working Party asked how the free-trade theory upon which Article XXIV is based and which is the basis for the presumption of trade expansion with third countries could operate when one of the participants is a country with a centrally-planned economy.

8. Some members of the Working Party referred to the well-known view of their countries as regards the necessity to include the agricultural sector in a free-trade agreement in order to comply with Article XXIV. They could not share the view that substantially all trade was covered by the Agreement.

9. One member of the Working Party asked why it was deemed necessary by the Government of Finland to conclude a free-trade agreement with Hungary, when earlier, during the examination of the free-trade agreements with the European Communities, it had been stated that these agreements would have a trade-creative effect. He expressed concern that the implementation of the Agreement might

cause, in its time, undesired repercussions on trade between either one of the parties to the Agreement and other contracting parties, by recalling the explanation given by the parties to the Agreement to the effect that the enlargement of the European Communities had caused a fear of the erosion of the competitive position of Finland which led to the formation of the free-trade area between the European Communities and Finland, and that the formation of that free-trade area had caused fear of undesired repercussions on the trade between Finland and Hungary, which led to the conclusion of the present Agreement. He expressed the hope that this concern would not materialize.

10. The representative of Finland stressed that free-trade areas in general were expected to have a trade creative effect. He referred to his introductory statement as regards the reasons for his country's having concluded the Agreement. He also pointed out that statistics showing the trade coverage under the Agreement were contained in document L/4195. The representative of Hungary supported these points of view.

11. In answer to a question whether Hungary had undertaken any import commitment in favour of Finland under the Agreement, the representative of Hungary declared that his country had not undertaken such a commitment in its relations with Finland.

12. A member of the Working Party put a number of questions concerning the freedom of choice left to the enterprises within the existing framework of Hungary's legislation. He requested information regarding new possibilities for intervention by the Hungarian central authorities in regard to the geographical pattern of trade. In addition, he asked for clarifications concerning direct or indirect forms of subsidization by industrial branch or geographical sector, and in that connexion enquired whether imports from and exports to Finland could be the subject of such measures. In conclusion, he expressed some doubt regarding the possibility for Hungarian enterprises to base their choice while taking exclusively into account the existence or non-existence of customs duties. Lastly, he considered that the replies given by the Hungarian delegation at the time of Hungary's accession to GATT did not relieve it from furnishing supplementary and up-to-date information on the occasion of the current examination.

13. The representative of Hungary stated that he shared the view that the acceptance by contracting parties of the information furnished by Hungary in the course of the negotiations for Hungary's accession to the General Agreement could not prevent the contracting parties from asking for additional information on regulations affecting Hungarian foreign trade. The framework of this was defined by the Protocol of Accession of Hungary to the General Agreement. In this context, at the meeting concluded the previous week by the Working Party on trade with Hungary, envisaged by the Protocol of Accession of Hungary to the

General Agreement, the contracting parties had put questions concerning the above subject, and the Hungarian party had given the information that since the time of Accession of Hungary to the General Agreement there had been no change in the regulations affecting Hungarian foreign trade which constitute a change as compared with the situation existing at the time of Hungary's Accession to the General Agreement. Consequently no such circumstances existed which could give rise to the doubts as to the possibility of the Hungarian enterprises to make their choice taking exclusively into account the existence or non-existence of tariffs.

14. Another member of the Working Party was of the opinion that the economic system of Hungary had become more centralized since that country's accession to GATT. He asked whether imports from Finland were receiving more favourable treatment by the Hungarian State-trading enterprises, and whether import subsidies or other elements of trade policy were used to that end. He stressed that an answer to this question was important in order to evaluate in what way countries with centrally-planned economies could conclude free-trade agreements compatible with Article XXIV. He also mentioned that more information about the Hungarian subsidy system was needed in this context.

15. The representative of Hungary urged the other members of the Working Party to respect the Decision of the CONTRACTING PARTIES adopted on 24 November 1967 to the effect that the CONTRACTING PARTIES' approach to the question of trade relations with countries with centrally-planned economies should continue to be on a pragmatic, country-by-country basis (15 BISD 68, paragraph 8).

16. The representative of Hungary was of the opinion that a general discussion on the Hungarian State-refund system fell outside the scope of this examination. He also reminded the Working Party that such an examination had taken place in connexion with Hungary's Accession, and that no change in the State-refund system had taken place since then. He stressed that, except for tariffs, there were no specific measures within the framework of Hungarian trade policy that would favour Finland in relation to other contracting parties. He stressed that Hungary, like any other contracting party, had the right to conclude agreements under Article XXIV. A member of the Working Party, supported by several other members, pointed out that it was not a matter of denying a contracting party the right to conclude free-trade agreements under the provisions of Article XXIV of the General Agreement, but of examining objectively whether, from the substantive aspect, those provisions of Article XXIV were applicable to the case under consideration. Another member of the Working Party said that there was no legal or other ground under the provisions of GATT to exclude any contracting party from the application of Article XXIV.

17. The representative of Finland expressed the opinion that all restrictive regulations of commerce in Hungary were now or would be eliminated in relation to Finland, and that the Agreement was compatible with Article XXIV.

18. A member of the Working Party asked whether there had been any specific changes in the granting of import licences to Hungarian importers since that country had acceded to GATT. The representative of Hungary replied that there had been no specific changes since the Protocol of Accession had entered into force.

19. Another member of the Working Party observed that the trade relations between the parties presented specific characteristics and that the agreement was designed to place those relations on a new basis with the stated objective of expanding mutual trade without causing any injury to third countries. He pointed out that, given the particular context of the agreement and the means it could bring in operation, some doubt could arise as to whether or not it was consistent with Article XXIV of the General Agreement. For that reason, he did not exclude the possibility of examining the agreement in terms of other provisions of the General Agreement. The representative of Finland said that the spirit of Article XXIV was evident throughout the Agreement. Another member of the Working Party expressed the view that Article XXIV was sufficiently flexible.

II. TRADE COVERAGE

20. One member of the Working Party said that in terms of the number of tariff items, a large part of the agricultural sector was excluded from the coverage under the Agreement. This raised the question as to when and under what circumstances the parties would include the rest of the agricultural products. The representative of Hungary replied that it was not necessary that the Agreement cover the bulk of the agricultural tariff headings, but rather that the trade taking place between the parties be covered. In the present case 99 per cent of Hungarian agricultural imports from Finland and 85 per cent of Finnish agricultural imports from Hungary were included. The member of the Working Party who had asked the question expressed the view that a purely mechanical calculation, drawn from what had happened in an earlier base period was meaningless, and that it was important to examine the potential trade.

21. The representative of Finland stated that whereas Hungary was a relatively efficient agricultural producer, the latitudes at which Finland was located ruled out its ever reaching that level of efficiency. He expressed pessimism as to the likelihood of any future enlargement of the scope of coverage in the agricultural sector.

22. Another member of the Working Party enquired as to why the parties had not adopted a procedure for sensitive agricultural items similar to that set out in Protocol No. 2 for certain industrial products, which provided a delayed time-table for tariff reductions. In reply, the representative of Finland explained that whereas many industrial producers could expect to adjust to changed market conditions within a period of about ten years, agricultural producers could not do likewise.

23. One member of the Working Party observed that there had been substantial fluctuations in the value of imports from Finland in 1973 and 1974, as shown in the reply to Question 8, and he enquired about the products affected by the fluctuations. The representative of Hungary declared his readiness to give additional information about the share of goods in the steep increase and said that it can be attributed to the liberal import régime of his country, which was also the case for imports from third countries.

III. CUSTOMS DUTIES

24. One member of the Working Party asked for an explanation of the "other restrictions" on imports referred to in the reply to Question No. 17. The representative of Finland replied that this concerned discriminatory import restrictions that had been abolished by his Government upon the entry into force of the Agreement.

25. A member of the Working Party called attention to Protocol No. 4 covering the retention of Finnish quantitative restrictions on certain products, and asked whether this was in conformity with Finland's obligations under the Protocol of Accession of Hungary. The representative of Finland explained that the restrictions in question were applied in a non-discriminatory manner under Article XII, and were not affected by the Agreement.

26. A member of the Working Party said that his authorities could not share the parties' rather narrow interpretation as to what constituted "other restrictive regulations of commerce" referred to in Article XXIV. Referring to document L/3301, dealing with Hungarian State preferences, he asked whether the price deviations had been or would be applied to products imported from Finland. The representative of Hungary replied that all relevant price measures in Hungary applied to all types of products, whether produced domestically or imported. The general system of State support did not involve restrictions of any kind.

IV. QUANTITATIVE RESTRICTIONS

27. A member of the Working Party referred to the Hungarian Ordinance No. 1053/1974/X.17, dealt with in Question No. 26, and asked whether it would operate so as to require purchases from certain suppliers to the detriment of potential imports from Finland under the Agreement. Citing paragraph 7 of the

Report of the Working Party on the Accession of Hungary (20 BISD 35), the representative of Hungary recalled that his authorities had already explained the operation of the import turnover tax, and had shown that the ordinances did not hinder any exporter's access to Hungary.

V. OTHER QUESTIONS

28. One member of the Working Party referred to Question No. 37 and asked whether any Hungarian import measures other than customs duties were changed by virtue of the Agreement. The representative of Hungary restated that only customs duties were affected by the Agreement, and said that these constituted the principal commercial policy instrument in his country.

29. A member of the Working Party asked whether Hungarian imports and exports were the subject of subsidies, rebates or any form of direct or indirect State intervention differentiated by branch. The representative of Hungary answered in the affirmative. The previous speaker thanked the Hungarian delegation for its reply, but pointed out that he had requested details regarding the subsidies, their amount, form, etc. The representative of Hungary considered such data outside the scope of the examination of the Working Party.

VI. CONCLUSIONS

30. The parties to the Agreement, supported by two other members of the Working Party, were of the opinion that the Agreement was in full conformity with the provisions of Article XXIV.

31. The other members who spoke could not, on the basis of the available information, express a view on this question and requested that the Working Party should continue the examination at an appropriate time on the basis of additional information.

32. It was noted that the representative of Hungary did not take a stand on the advisability of the continuation of the work of the Working Party.