

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONSULTATION WITH POLAND

Eighth Review under the Protocol of Accession

Report by the Working Party on Trade with Poland

1. The Council, at its meeting on 2 June 1975 (C/M/106), established a Working Party to conduct, on behalf of the CONTRACTING PARTIES, the eighth annual consultation with the Government of Poland provided for in the Protocol of Accession, to re-examine the question of the establishment of a date for the termination of the transitional period referred to in paragraph 3(a) of the Protocol, and to report to the Council.

2. The Working Party met on 9 and 20 October 1975 under the chairmanship of Ambassador I.S. Chadha (India).

3. The Working Party had before it the following documents containing information relevant to its work:

L/4216 and
Addenda

Notifications by contracting parties on discriminatory restrictions maintained on imports from Poland.

L/4218

Data on Poland's trade with GATT countries in 1972-1974 and imports from GATT countries for the first half of 1975.

4. The following report sets down the main points of discussion in the Working Party under three headings:

A. General

B. Annual review of Poland's trade with contracting parties.

C. Establishment of a date for the termination of the transitional period referred to in paragraph 3(a) of the Protocol of Accession.

A. GENERAL

5. In an introductory statement, the representative of Poland said that the annual consultations showed the magnitude and variety of his country's trade relations with other contracting parties, as well as their dynamic nature. His Government hoped that the consultations would contribute to the further improvement and expansion of that

mutual trade. Poland had more than fulfilled its import commitment under the Protocol of Accession; and there was a generally upward trend in trade with contracting parties. On the other hand, his authorities could not conceal their disappointment with the prolonged duration of the transitional period which impaired Poland's rights under the General Agreement and distorted, to its disadvantage, the net effect of its participation in GATT. His Government considered the resolution of this outstanding problem as a matter of utmost importance for enhancing the rôle that GATT might play in the promotion of trade between countries having different economic and social systems, bearing particularly in mind the results of the European Conference on Security and Cooperation.

B. ANNUAL REVIEW OF POLAND'S TRADE WITH CONTRACTING PARTIES

I. Polish exports to the territories of contracting parties

(a) The general trend and geographical distribution of Polish exports to the territories of contracting parties

6. Referring to document L/4218 the representative of Poland stated that Polish exports to GATT countries had increased from 1973 to 1974 by 40.1 per cent. In absolute terms, exports to GATT countries had increased from \$3.2 billion to \$4.5 billion. Exports to all countries had increased from 1973 to 1974 by 39.9 per cent, from \$6.4 billion to \$8.7 billion.

7. In reply to a question put by one member of the Working Party, the representative of Poland confirmed that the percentage increases mentioned above were based on current prices.

(b) Development of Polish exports of different categories of goods, e.g. agricultural goods, raw materials, semi-manufactured goods, machinery and consumer goods

8. The Working Party noted the following figures for total exports of the four main commodity groups:

	1973		1974	
	to GATT countries %	to all countries %	to GATT countries %	to all countries %
Machinery and equipment	26.2	38.8	23.2	36.9
Raw materials and semi-manufactures	40.0	30.7	51.1	36.1
Food products	22.8	14.2	15.4	11.7
Consumer goods	11.0	16.3	10.3	15.3

9. One member of the Working Party noted that Polish exports had evolved favourably. He found, however, the statistics supplied by Poland insufficient, in that it was difficult to see how the Polish exports were composed. He asked the Polish representative if it would be possible in the future to get better statistics, broken down by country and products (in terms of value and quantity). This request was supported by another member of the Working Party.

10. The representative of Poland found, for his part, that the statistics supplied were sufficient for the Working Party to judge whether Poland had fulfilled its commitments laid down in Schedule LXV. He mentioned, however, that the main statistical office of Poland published a yearbook of Poland's Foreign Trade, comprising some 350 pages, where the requested information could be found. A less voluminous statistical yearbook was also issued in several languages, where sufficient data on Poland's foreign trade were included. He stressed that the statistics on foreign trade were continuously being improved. For the moment, the Polish authorities made efforts to introduce the BTN nomenclature in the statistics.

(c) Action taken by contracting parties under paragraph 3 of the Protocol to remove remaining quantitative restrictions on imports from Poland

11. The Working Party noted that the following contracting parties had notified that they did not maintain any discriminatory quantitative restrictions of the kind referred to in paragraph 3 of the Protocol:

Argentina	Hungary	New Zealand
Austria	Iceland	Romania
Brazil	India	South Africa
Canada	Japan	Spain
Cuba	Korea	Switzerland
Czechoslovakia	Malta	United States
		Yugoslavia

12. It was recalled that in the course of previous consultations, it had been noted that the following countries had informed the secretariat that they did not maintain discriminatory restrictions against Poland:

Australia	Indonesia	Pakistan
Burundi	Ivory Coast	Portugal
Cameroon	Kenya	Rwanda
Chad	Kuwait	Sierra Leone
Chile	Malawi	Turkey
Cyprus	Nigeria	Upper Volta
		Uruguay

The Working Party noted that these countries had not communicated additional information to the secretariat for the eighth consultation.

13. The Working Party took note of the notifications on quantitative restrictions submitted by:

European Communities
Finland

Norway
Sweden

14. The representative of Poland expressed his disappointment that several contracting parties still maintained discriminatory quantitative restrictions on imports from Poland. Noting that only one of these, Sweden, had made a considerable effort since the last review, he reiterated his request for a total elimination of these restrictions as soon as possible in order to reach a termination of the transitional period. He pointed out that in the evaluation of the balance of rights and advantages with particular contracting parties under the General Agreement and the Protocol, Poland took into account the factor of time resulting from the delayed elimination of the discriminatory restrictions. He welcomed the Austrian removal of all discriminatory quantitative restrictions, which in his view, served as evidence that such a liberalization was possible. He furthermore stressed that sufficient remedies for market disruption were provided in the General Agreement as well as in the Protocol. He pointed out that the Protocol should be interpreted according to the intentions lying behind its provisions. In his opinion the Protocol imposed upon all contracting parties maintaining discriminatory restrictions on the date of the Protocol, the obligation of total elimination of those restrictions. In this sense the majority of the above-mentioned contracting parties including all members of the European Communities had not yet fulfilled this obligation. Raising the legal question of the obligations of the Communities and their particular member States as contracting parties under paragraph 3(a) of the Protocol with regard to the elimination of the discriminatory restrictions, he was of the opinion that every member of the European Communities was bound by the Protocol. In particular he considered that the introduction of any new discriminatory restriction by any particular member of the Community would be contrary to the Protocol of Accession. He stated that the form of the notification of the European Communities made it impossible to judge the extent of the liberalization, if any, that had taken place in particular member States of the European Communities. He stressed that it was essential to examine the progress in the elimination of the discriminatory restrictions on the basis of data corresponding to the real situation with which Polish exporters were confronted. Moreover, the European Communities had introduced two new items on its list of restrictions, which was totally contrary to paragraph 3(a) of the Protocol. With regard to the reference made by the representative of the European Communities to a proposed bilateral agreement, the Polish representative said that the Working Party should examine actions and measures taken to eliminate remaining discriminatory restrictions under the General Agreement and the Protocol of Accession. In the view of the Polish representative the reference of the

representative of the European Communities could not be qualified as such action or measure. The representative of Poland said that the reply given to his question by the representative of the Communities on the legal obligations of the Community as signatory of the Protocol and its particular members as contracting parties and signatories of the Protocol concerning removal of discriminatory quantitative restrictions was not adequate.¹

15. The representative of Sweden stated that the trade between Poland and Sweden had tripled in value from 1971 to 1974, and that this trend continued. A partly new régime had been introduced with regard to certain goods, imported from Poland. As a result, the majority of products would be allowed to enter the Swedish market without restrictions. In the future only a few products, mainly certain textiles, shoes and chinaware, would be restricted for certain important and exceptional reasons. In consequence, the Swedish Government had fulfilled its obligations under the Protocol.

16. The representative of Switzerland expressed his satisfaction concerning the favourable development of trade between his country and Poland. Referring to document L/4216/Add.2, he explained that imports of industrial products from Poland were not submitted to any quantitative restrictions and that the imports of agricultural products were submitted to the same régime as imports from other countries. He added that the special regulations on eggs in shell had been suspended as from 1 January 1975.

17. The representative of Austria confirmed that his Government had eliminated all discriminatory quantitative restrictions as from 1 January 1975. He also expressed his satisfaction concerning the development of trade between Poland and Austria, which had doubled from 1972 to 1974.

18. The representative of Norway stated that there had been no major change in the Norwegian restrictions on imports from Poland in the period 30 June 1967-1 January 1975. He felt it important to note, however, that Norway's restrictions vis-à-vis Poland concerned only twelve items, all of hard core nature. He added that during the period concerned, quotas had been increased and one restriction abolished. He concluded that Norway therefore had fulfilled its obligations under the Protocol.

19. The representative of the European Communities recognized with regret that progress made since the last review had been slow. Referring to document L/4216, he stated that nine full and twenty-nine partial tariff headings had been eliminated from the restrictive list since the last review. There remained 115 full and

¹See paragraph 19.

ninety-four partial tariff headings affected by discriminatory quantitative restrictions. Some additional liberalization measures had, however, been introduced on 1 October 1975, when processed fruits and vegetables had been liberalized. The restrictions still being applied were necessary in the present economic situation of the European Communities. The latter had furthermore offered to conclude a trade agreement with Poland, under which ways and means for a faster liberalization could be found. No answer had, however, yet been received from Poland. A third reason for maintaining the quantitative restrictions in question was the concern of the industries in the Communities as regards subsidized Polish exports on the Communities' markets. Furthermore, he recalled that under Article 3(a) of the Protocol, the obligation fully to liberalize imports from Poland was to take effect only after the expiry of the transitional period. So long as that date had not been agreed, no such obligation existed and therefore the statement by the Polish delegation that the Communities and their member States had not fulfilled their obligations was without legal foundation. The only obligations arising from the Protocol during the transitional period were set forth in paragraph 3(a), (a) and (b):

"... may, notwithstanding these provisions, continue to apply such prohibitions or restrictions to their imports from Poland provided that the discriminatory element in these restrictions is (a) not increased and (b) progressively relaxed as far as the quantities or values of permitted imports of Polish origin ...".

The representative of the Communities concluded on this point that, since remaining restrictions had been progressively eliminated and quotas had been increased successively, the Communities had therefore fulfilled their commitments under the Protocol. He underlined, furthermore, that the competence within the European Communities as regards the external trade policy had changed since the Protocol came into force. Today this competence was totally transferred from the member States to the bodies of the Communities. Referring to Polish enquiries concerning two tariff headings said to be liberalized vis-à-vis contracting parties but not vis-à-vis Poland the representative of the Communities stated that these products were in any case of little economic importance; licences were granted liberally and the general obligation was in no way affected thereby. Several delegations commented that the statistics provided by the European Communities did not indicate which specific member States of the Communities continued to apply discriminatory quantitative restrictions inconsistent with Article XIII. The representative of the Communities observed that the form of notifications showed whether or not there had been any liberalization, since each year the notifications reported the number of tariff headings

and sub-headings, together with statistical data and an indication of progress made in the number of tariff headings and sub-headings, so that the progress made could thus be seen objectively. In addition, he drew the Working Party's attention to the additional information concerning the situation of each of the member States in respect of autonomous quotas that was published in the Official Journal of the Communities. The GATT secretariat could perhaps circulate that information for the Working Party's next meeting.

20. Several delegations expressed regret that some contracting parties still maintained quantitative restrictions on imports from Poland not consistent with Article XIII. They also expressed regret about the slow pace of the removal of discriminatory quantitative restrictions, particularly by the European Communities. They also indicated that if in fact any new discriminatory quantitative restrictions had been introduced, this would be contrary to the provisions of the Protocol. They considered that neither economic reasons, nor offers to conclude special trade agreements, nor threat of market disruption justified such restrictive measures. They agreed with the Polish representative that adequate remedies of market disruption or threat thereof were provided under Articles VI and XIX of the General Agreement, as well as under paragraph 4 of the Protocol. Referring to certain objections expressed by some contracting parties, a member of the Working Party enquired what other reasons could justify the maintenance of quantitative restrictions except precisely reasons relating on the one hand to the economic and social situation in the importing market, and on the other hand to the sales terms practised by the exporter. Furthermore, in his view, quantitative restrictions were the most appropriate instrument of trade defence at the present time, taking into account the direct or indirect aids or other forms of State intervention in effect in Poland.

(d) Other questions relating to the exports of Poland to the territories of contracting parties in the period under review, including any problems arising of the sort provided for by, or any action taken under, paragraph 4 of the Protocol

21. A member of the Working Party said that his authorities were concerned about direct and indirect aids to Polish exports. With regard to direct forms of aid to exports, he cited "export price supplements" and "grants" to undertakings producing exportable articles. These "grants" came into operation when a sector was uneconomic. A system of "conversion coefficients" was used to keep certain export prices below production costs. With regard to indirect aid to exports, he spoke of "compensatory price supplements" for imports and the practice of fixing domestic prices on certain commodities such as ferrous and non-ferrous metals,

wool, cereals and jute. In such cases, the practice in Poland was to refund the difference between the transacted price and the domestic price. He said that the two forms of direct aid, amounting to 31,500 million zlotys, represented 4.6 per cent of all expenditure under the Polish State Budget in 1975, in accordance with the 1975 Budget Act of 17 December 1974. The sum total of direct and indirect forms of aid to exports amounted to 6 per cent of all the State budget expenditure in 1975, and the share represented by export and import subsidies in total expenditure under Poland's 1975 budget, net of any budgetary charges on importers, was 85,900 million zlotys, or 12.6 per cent of the total budget expenditure. He also said that the share represented by subsidies to foreign trade and to production for the domestic market, not including subsidies for internal trade, was 19 per cent of the budget in 1975.

22. The representative of Poland, in response, noted that the Working Party was not examining his country's accession to GATT, nor was it dealing with possible modifications to the Protocol of Accession. An examination of the Polish economic system was therefore not warranted, either by the Protocol itself or by the procedure outlined in Annex A. His authorities were displeased with a tendency to have such questions raised again in the annual examinations under the claim that there was a link between the issues raised and the discriminatory quantitative restrictions maintained by certain contracting parties. His Government did not agree that such a link existed, but would, of course, be ready at any time to consult with any contracting party on any question notified to it under the appropriate GATT procedures. As for references made to the Polish budget, the representative of Poland said that in his country's economy there were no instruments which could cause consequences for exports equal to those resulting from subsidies in a free-market economy. The budgetary items referred to imports and were aimed at preventing the inward transfer of inflation to the Polish economy, where it was the policy to keep prices on consumer goods low and stable.

23. The member of the Working Party who had raised the issue expressed the view that paragraph 1(d) of Annex A of the Protocol of Accession provided ample opportunity for contracting parties to explain the reasons for maintaining measures affecting imports from Poland. Moreover, it could not be argued that once a country had acceded to GATT it was free to employ whatever measures it chose.

24. The representative of Poland replied that, since the signature of the Protocol in 1967, there had been no change in his country's economic system contrary to the conditions of Poland's accession. As for questions relating to other contracting parties' economic systems generally, his authorities would likewise be interested in learning about matters such as the activities of large enterprises in the market economies and in restrictive business practices. He noted that these and other problems were in fact being discussed elsewhere, but that the Working Party had a definite mandate.

25. A member of the Working Party reiterated the view that adequate remedies for concrete cases of subsidization or market disruption were provided under Articles VI and XIX as well, in the case of Poland, under paragraph 4 of the Protocol of Accession. With respect to Polish exports, no case of market disruption or exports with effects of subsidization had been notified, nor had any concrete proof been offered with regard to possible direct or indirect subsidy effects of Polish exports. In his view, there were, accordingly, no grounds for discussing internal financial measures of Poland in the Working Party; and the possible subsidy effects of Polish exports could be dealt with only on a case-by-case basis where a contracting party could show that imports from Poland had caused serious injury to its industry.

26. Another member of the Working Party agreed that it should not examine the general economic system in Poland. However, he and another member considered that specific questions concerning possible export subsidies were germane to the Working Party's mandate. The former had noted with satisfaction that, when asked about the Polish budget, the representative of Poland had reassured the Working Party that the items in question related only to Polish imports of consumer goods.

27. The member of the Working Party who had raised the matter of direct or indirect subsidies to Polish exports expressed the view that those questions were relevant, since that accounted for the maintenance of quantitative restrictions. He regretted, furthermore, that information concerning the various forms of aids, subsidies or other forms of direct or indirect intervention in imports or exports had not been notified regularly. Indeed, that influenced the level of Polish export prices.

II. Polish imports from the territories of contracting parties

(a) The general trend and geographical distribution of Polish imports from the territories of other contracting parties

28. Referring to document L/4218 the representative of Poland stated that the increase in Poland's imports from GATT countries from 1973 to 1974 had been 41.8 per cent, thus considerably exceeding Poland's commitment. In the first half of 1975 the imports from GATT countries had increased by 23.2 per cent in comparison to the same period the previous year. Total imports had increased by 34.2 per cent to \$10.8 billion from 1973 to 1974. For GATT countries the latter figure was \$6.9 billion. The imports from GATT countries as a percentage of total imports had reached 64 per cent in 1974 as compared with 61.6 per cent in 1973.

29. One member of the Working Party expressed the opinion that the import commitment in the Polish Schedule LXV should be measured in real terms. He therefore asked what the increase of Polish imports from contracting parties amounted to in fixed prices. The representative of Poland stated that the discussion in the course of previous consultations had shown that there was general agreement that the import commitment was to be measured in current prices. The Working Party noted with satisfaction that Poland had fulfilled its import commitment under the Protocol.

(b) Development of Polish imports of various categories of goods

30. The Working Party noted the following figures for total imports of the four main commodity groups:

	1973		1974	
	from GATT countries %	from all countries %	from GATT countries %	from all countries %
Machinery and equipment	39.3	41.1	36.4	38.5
Raw materials and semi-finished products	44.5	44.2	49.2	47.0
Food products	9.7	8.4	9.3	8.8
Consumer goods	6.5	6.3	5.1	5.7

(c) Development of Polish imports from the territories of contracting parties in relation to the development of the Polish market

31. No point was raised under this item of the agenda.

(d) Provision made by Poland pursuant to paragraph 1 of the Schedule of Concessions of Poland to ensure an annual increase in the total value of its imports from the territories of contracting parties

32. No point was raised under this item of the agenda.

(e) Other questions relating to imports of Poland from territories of contracting parties

33. One member of the Working Party reiterated his concern about the Polish subsidies, mentioned under section I(d) above. The representative of Poland referred to the responses he had made in that context.

III. Polish balance of payments with contracting parties

34. The Working Party heard additional clarifications and explanation by the Polish delegation regarding the data submitted to the Working Party on Poland's balance of payments with contracting parties, and noted that Poland's trade deficit with contracting parties had continued to increase in comparison with the preceding years. Loans and credits granted to Poland had also continued to increase.

C. ESTABLISHMENT OF A DATE FOR THE TERMINATION OF THE TRANSITIONAL PERIOD REFERRED TO IN PARAGRAPH 3(a) OF THE PROTOCOL OF ACCESSION

35. The representative of Poland recalled the arguments which his delegation had made in the past concerning the need to set promptly a date for terminating the transitional period, and reminded the Working Party that at the previous consultation Poland had repeated its proposal that the transitional period expire at the end of 1974. He urged action on this issue and requested its final settlement. Several members of the Working Party supported the proposal for the establishment of an early terminal date.

36. A member of the Working Party said that two reasons prevented his authorities from taking steps towards setting a termination date, viz the current economic conditions to which reference had been made earlier, and the absence of an adequate reply to his questions concerning Polish subsidies and their effect on the formation of prices. His authorities were, on the other hand, willing to co-operate to the utmost. In this spirit they would be interested in the possibility of raising import quotas on a number of Polish export items and of entering into a bilateral arrangement that could provide the framework for further liberalization, which would, in any case, call for self-control and discipline as to the setting of prices. He recalled that his delegation had in the past proposed a compromise solution that had not been adopted by the Working Party.

37. The Chairman stated that in the absence of progress in the setting of a terminal date, the Working Party would have to continue its efforts at its next review.