

GENERAL AGREEMENT ON TARIFFS AND TRADE

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UNITED STATES - SUSPENSION OF CUSTOMS LIQUIDATION REGARDING CERTAIN JAPANESE CONSUMER ELECTRONIC PRODUCTS

The following communication, dated 12 May 1977, has been received from the Permanent Delegation of Japan.

1. On 12 April 1977, the United States Customs Court in New York ruled that countervailing duties should be levied on certain consumer electronic products imported into the United States from Japan by reason of exemption from commodity taxes upon the export of such products from Japan. The subsequent action as of 13 April, by the United States Treasury Department to suspend customs liquidation procedures with respect to the imports of such products from Japan is bound to affect seriously exports of Japanese consumer electronic products (which amounted in 1976 to US\$1.89 billion).
2. In this respect it may be recalled that the United States Treasury Department, following its countervailing duties investigations since 1972, made a decision that the effects of the measures in Japan should not be subject to countervailing duties. The United States Customs Court ruling was made on the Zenith Radio Corporation's motion against this decision contending that the exemption from the Japanese commodity taxes should be made subject to countervailing duties.
3. The measures introduced by the United States authorities, in Japan's view, clearly contravene the provisions of GATT which reads in Article VI, paragraph 4:

"No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes."

and in the supplementary note to Article XVI:

"The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy."

4. On this issue the Japanese Government has repeatedly expressed its views to the United States Government since the initiation of the litigation that the contention of Zenith Radio Corporation is contrary to the provisions of GATT. It must be said that the ruling by the United States Customs Court and the subsequent United States action that is in violation of established rules, is bound to cause serious effects not only to exports of Japanese electronic products to the United States but to world trade in general as many contracting parties to GATT presently exempt exported products from internal consumption taxes or refund such taxes.

Furthermore, as there is danger of possible proliferation of such actions in the United States to many other products imported from a large number of contracting parties, it would be necessary for the CONTRACTING PARTIES to express a clear-cut view on this matter.

5. Accordingly, the Japanese Government requests that the Council establish a Working Party without delay to consider Japan's view that the decision by the United States Customs Court on Zenith Radio Corporation vs United States and the subsequent United States action, is in contravention of GATT Article VI, paragraph 4 and the supplementary note to Article XVI, and consequently impairs Japan's rights under the GATT, and to report expeditiously to the Council.