

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED

SCM/M/18/Suppl.1

5 December 1983

Special Distribution

Committee on Subsidies and
Countervailing Measures

MINUTES OF THE MEETING HELD ON 9-10 JUNE 1983

Supplement

The following paragraphs should be added to the Minutes of the meeting of the Committee held on 9-10 June 1983. They relate to the statement by the representative of New Zealand relevant to the matter discussed under item (1) of the agenda, which was delivered at a later date.

The representative of New Zealand recalled that when the report of the Panel on the EEC Subsidies on Exports of Pasta Products had been placed before the Committee in June 1983 the views of Signatories were sought. At that time he commented briefly presenting his country's view that the report ought to be adopted; however, he had not addressed the substance of this report and now he wished to do so. The Pasta Report potentially represented an important precedent. The majority decision was distinctive for its clear reasoning and decisive conclusions. If it were to be adopted he considered that it would be a significant step towards containing the use of agricultural export subsidies on processed agricultural products. Its adoption would also represent a positive gesture by a major contracting party to ease tension in agricultural trade. He considered that this case afforded an opportunity. On the other hand, if the consequences of this report were to be ignored or the findings of the Panel rejected, this would, in his view, run counter to the few benefits his country considered this Code to contain. Moreover, it would also be a major blow to the hopes entertained by all Signatories of improving the dispute settlement procedure. If the Committee rejected or by some procedural manoeuvring in effect buried the findings of this Panel, the implication would be that the interpretation of one Signatory would prevail, and this would radically alter the scope and impact of Article 9.

He considered this report to be one of the positive steps in respect to agriculture that the GATT has taken. The importance and value he attached to it was evidenced by the clear majority findings on a number of key points such as that pasta is not a primary product (paragraph 4.2), that "primary product" and "agricultural product" are not synonyms (paragraph 4.5), that the US reservation to its signing of the 1958 Standstill Declaration is of no relevance to the subsequent US acceptance of the Subsidies Code (paragraph 4.7), and that the wording of Article 9 of the Code is clear and unambiguous (paragraph 4.9).

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He further considered that the tenor of the argument put forward by one party to this dispute was that the acceptability of GATT rules was determined by practice. In his opinion, such a view, if widely accepted, would simply serve to gradually undermine the effectiveness of the GATT as a legal instrument. It was vital that practices conformed to the agreed rules and that the rules were both acceptable and unambiguous. It was in this context that paragraph 4.9 was significant in presenting the majority view that Article 9 of the Code was "clear and unambiguous".

He also said that the evolution of Article XVI illustrated the manner in which interpretive differences have evolved, particularly in terms of differential treatment for agricultural products. Article XVI fundamentally was intended to limit any export subsidies, including subsidies on primary products, except in special circumstances. The substance of the interpretation of one party was that subsidies on agricultural products were permitted other than in certain circumstances. This was an argument that would hopefully be dealt with soon, possibly in the context of the Committee on Trade in Agriculture. In the meantime, given the clear findings of the Pasta Panel on such points of interpretation he could only say that he would rather see an agreement to differ, rather than a compromise resolution that undermined fundamental principles. He stressed that his delegation endorsed the majority decision of the Pasta Panel Report and considered it to be the only proper basis of a Committee Decision.