

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Forty-Second Session

SUMMARY RECORD OF THE FOURTH MEETING

Held at the International Conference Centre, Geneva
on Wednesday, 26 November 1986, at 11 a.m.

Chairman: Mr. K. Chiba (Japan)

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Activities of GATT, continued

The following statements were made:

Mr. Mario Barros van Buren Ambassador, Permanent Representative of Chile	SR.42/ST/33
Mr. N. Vejjajiva Ambassador, Permanent Representative of Thailand	SR.42/ST/34
Mr. Paulo Nogueira Batista Ambassador, Permanent Representative of Brazil	SR.42/ST/35
Mr. Paul Luyten Deputy Director-General for External Relations of the European Communities	SR.42/ST/36
Mr. Gerhard Abel Director, Federal Ministry of the Economy of the Federal Republic of Germany	SR.42/ST/37
Mrs. Rosalinda de Perio-Santos Ambassador, Permanent Representative of the Philippines	SR.42/ST/38

Mr. Poedji Koentarlo
Ambassador, Permanent Representative
of Indonesia
(speaking for the ASEAN contracting parties)

SR.42/ST/6/Add.1

Mr. A. Hoda
Joint Secretary, Ministry of Commerce of India

SR.42/ST/24/Add.1

Mr. Carlos Larreategui
Minister-Counsellor (Commercial),
Permanent Mission of Ecuador
(speaking as an observer)

SR.42/ST/39

Summing up the discussion on Agenda item 2, the CHAIRMAN remarked on some of the main themes emerging from that discussion. Among these were the fact that the launching of the Uruguay Round itself was not a reason to be complacent, since there lay ahead the great challenge of how to implement effectively the Ministerial mandate. Many contracting parties had drawn attention to the continuing difficulties faced by the economies of both developed and developing countries. Such difficulties included sluggish growth, depressed levels of production, serious unemployment, fiscal deficits, current account imbalances and reduced export earnings. Attention had also been drawn to the problems confronting a large number of developing countries as a result of the decline in commodity prices and the worsening of terms of trade, and the consequent difficulties experienced by these countries in restoring growth and servicing debt. Some, however, had also noted prospects for a better environment for the world economy in coming years. References had also been made to the need for improvements in fiscal and monetary policies, including those affecting financial flows to developing countries.

He noted that many delegations had expressed concern at the growing protectionist pressures during the past year, some of which had resulted in the introduction of various measures inconsistent with GATT rules and disciplines. However, they had also recognized the Punta del Este Declaration as a clear demonstration of firm determination to resist protectionism and to strengthen the open trading system. Almost all speakers had viewed the implementation of the standstill and rollback commitments as an essential element for the entire Uruguay Round and had emphasized the urgent need to establish an appropriate mechanism for efficient and effective surveillance of such commitments. As for the individual subjects in the negotiations, described as a single political undertaking, many delegations had mentioned their priorities, and references had been made, inter alia, to the importance of progress in areas such as agriculture, subsidies, safeguards, textiles and clothing, dispute settlement and tropical products.

The need for wide participation in the multilateral trade negotiations had also been stressed, and some delegations had emphasized the need to give attention to items of particular interest to developing countries and for an improved application of differential and more favourable treatment for those countries in the negotiations. Some delegations had said they expected to receive technical assistance in the course of the negotiations. Regarding the organizational aspects of the negotiations, all those who had addressed such questions had favoured strict compliance with the time-frame set by Ministers, which meant that all the necessary groundwork, including the setting up of negotiating groups with detailed negotiating plans, had to be completed in 1986 so that negotiations on points of substance could start in earnest the following year. He said that this undoubtedly was not an easy task, but agreed with those representatives who had said that the process of negotiations should not be held up on points of procedure, and that contracting parties had to ensure, before the end of 1986, that the Uruguay Round was off to a good start.

Many delegations had warned, as he had done in his opening statement, that despite the new negotiations, the regular work of GATT could not be relegated to the side-line. The work of the Council and of the Committee on Trade and Development, as well as that under the MTN Codes and the 1982 Ministerial Work Program had to continue with the same vigour as earlier. It had been widely noted that there were problems which could not await the outcome of the Uruguay Round for remedy, and to stop the erosion of the multilateral trading system it was essential that GATT disciplines and obligations be respected.

He then expressed thanks to Mr. William B. Kelly, Deputy Director-General, who was leaving at the end of 1986 to return to Washington after six years of service in GATT. Both in his own capacity as a delegate of Japan and as an office bearer in GATT bodies, he had known Mr. Kelly. He noted that they shared a "sacred bond" of having attended at different periods the same graduate school, where Mr. Kelly had later taught. They had developed a very close working relationship, and Mr. Kelly's sound advice and good criticisms had been very helpful. He said that both he and GATT would miss Mr. Kelly after his departure from Geneva and, on behalf of the CONTRACTING PARTIES, congratulated him on a job well done.

The contracting parties warmly applauded the Chairman's statement of thanks.

The CONTRACTING PARTIES then adopted the report of the Committee on Trade and Development (L/6092) and took note of the reports of the MTN Committees and Councils (L/6056, L/6061, L/6064, L/6068, L/6072, L/6074, L/6081, L/6089 and L/6094).

Report of the Council (L/6091 and Add.1), continued

Point 1. 1982 Work Program

Sub-point 1(b) Quantitative Restrictions and Other Non-Tariff Measures

Mr. Huslid (Norway), Chairman of the Group on Quantitative Restrictions and Other Non-Tariff Measures, recalled that when this item had come up earlier in the Session, it had been agreed that he should hold informal consultations on the future of the Group. He said that as the Uruguay Round had already started, a group or groups for negotiations on both tariff and non-tariff barriers would no doubt be established. Nevertheless, the view had been expressed that the valuable documentation assembled and analyzed as part of the Group's work should not be lost or allowed to become outdated, as this work was important for the negotiations. In line with these considerations, the delegations taking part in informal consultations had prepared a draft decision and had recommended that, in addition to adopting the Group's report, the CONTRACTING PARTIES should decide that the Group be terminated, it being expected that its main tasks would be incorporated in the new round. However, in order to maintain the information and transparency in this important field, a technical group was proposed, the main task of which would be to update and analyze the documentation previously prepared by the Group on Quantitative Restrictions and Other Non-Tariff Measures. The first updating was foreseen for not later than March 1987, a date which should be read in conjunction with paragraph 28 of the Group's report, which set the deadline of 31 January 1987 for governments to provide the necessary information. Lastly, it was foreseen that the documentation in question would be made available to other groups, including the relevant bodies established under the Ministerial Declaration.

The CHAIRMAN then read out the text of the draft decision as follows:

"The CONTRACTING PARTIES agree that:

"1. the Group on Quantitative Restrictions and Other Non-Tariff measures is terminated;

"2. a Technical Group, open to all contracting parties, is established for the purpose of finalizing not later than March 1987 the updating of the documentation previously prepared by the Group on Quantitative Restrictions and Other Non-Tariff Measures;

"3. the same Group will conduct the subsequent updating and analysis of documentation in accordance with the timetable and procedures agreed by the CONTRACTING PARTIES in 1984 and 1985 (BISD 31S/227-228, BISD 32S/92-93); and

"4. the documentation resulting from the work under the above paragraphs shall be available to other groups, including the relevant bodies established under the Ministerial Declaration on the Uruguay Round."

The CHAIRMAN proposed that the CONTRACTING PARTIES adopt the report of the Group on Quantitative Restrictions and Other Non-Tariff Measures (L/6073) and agree to the draft decision.

The CONTRACTING PARTIES so agreed (L/6100).

Point 5. Tariff Matters

Sub-point 5(b) Harmonized System

The CHAIRMAN said that following informal consultations, he now proposed that the CONTRACTING PARTIES take note of the statements made under this sub-point of the Council's report and decide to refer to the Committee on Tariff Concessions, for an appropriate solution, the question of the time-limit for presenting claims of interest for the Harmonized System negotiations, in light of the communication in document C/W/509 as well as its annex, and bearing in mind the agreed objective of the entry into force of the Harmonized System on 1 January 1988.

The CONTRACTING PARTIES so agreed.

Point 16. Recourse to Articles XXII and XXIII

Sub-point 16(c)(iv) Japan - Customs duties, taxes and labelling practices on imported wines and alcoholic beverages

Mr. Tran (European Communities) said that the Community maintained its urgent request for the establishment of a panel on the matter of Japan's customs duties, taxes and labelling practices on imported wines and alcoholic beverages. At the same time, the Community noted that Japan was considering announcing in December certain measures which that country expected would resolve this issue. In the event that these measures did not yield a satisfactory solution, the Community understood that a panel on this issue would be established, together with its terms of reference and composition, at the first meeting of the Council in 1987. Should a panel be set up, the Community expected it to begin its work without any delay.

Mr. Endo (Japan) said that his delegation concurred with the Community's statement. Japan wanted to make it clear that should a panel be established, it would examine this matter in the light of the relevant GATT provisions.

Mr. Samuels (United States) apologized for requesting the floor to address an item that had already been taken up when the Council's report had been discussed¹, but said that the deferral of the present item -- the Community's request for a panel on Japanese liquor imports -- had prompted him to do so. He said that as everyone was aware, the United States, at the 27 October Council meeting, had requested that a panel be established to examine Japanese import restrictions on herring, pollock and surimi. Japan had not agreed to that request. His delegation had repeated its request at the Council meeting on 21 November. Still Japan had not agreed to a panel. His delegation had suggested -- in good faith and in an effort to be reasonable -- that a panel be established in principle, with the understanding that its composition would not be agreed until after the United States and Japan had held further bilateral consultations. Even that had been unacceptable to the Japanese. Earlier in the present Session, his delegation had noted its regret, and had said that it fully expected that a panel would be established at the next Council meeting. Now his delegation understood that the Japanese had agreed to the establishment in January 1987 of a panel on its liquor import practices. Obviously the same General Agreement was to be applied in both cases; likewise in both cases, the United States had recourse to the same dispute settlement mechanism. There was no reason why panels should not be established in both of these cases in January, with terms of reference and composition to be agreed at the same time in both cases. The United States congratulated the Community for its persistence, and insisted on equal treatment.

Point 20. Waivers under Article XXV:5

Sub-point 20(a) CARIBCAN

Mr. Nottage (New Zealand), Chairman of the Working Party on CARIBCAN, presented its report (L/6090 and Corr.1), noting that the Annex contained a draft decision on Canada's request for a waiver. The Working Party's conclusions (paragraphs 23 to 26) reflected in a carefully balanced manner the views expressed by members. As indicated in those paragraphs, there had been a large measure of support and understanding in the Working Party for the objectives and purposes of CARIBCAN, particularly for the aim of promoting economic development and raising the standard of living of the people in the Commonwealth Caribbean countries through increased access for their exports. These objectives, it had been noted, were consistent with those of the General Agreement. At the same time, a number of points relating to the rights and interests

¹ See SR.41/1, sub-point 16(c)(iii) of the Council's report.

of other contracting parties, and to the principles and provisions of the General Agreement, had also been made by various members of the Working Party. In the light of Canada's request, and bearing in mind the explanations given by Canada and, in particular, the assurances that CARIBCAN would be administered in a manner which did not damage the trade of non-beneficiary suppliers, the Working Party had prepared the draft waiver for submission to the CONTRACTING PARTIES. As usual in reports of this nature, the Working Party had noted the understanding that the waiver would in no way be considered as affecting the legal rights of contracting parties under the General Agreement. In terms of operative paragraph 1 of the draft waiver, the provisions of paragraph 1 of Article I of the General Agreement would be waived until 15 June 1998, to the extent necessary to permit the Government of Canada to provide duty-free treatment to eligible imports of Commonwealth Caribbean countries benefiting from the provisions of CARIBCAN. The draft waiver, which was a carefully balanced instrument, sought to take account of the concerns expressed by the members of the Working Party. The provisions of the waiver concerning notification of trade-related measures taken under CARIBCAN, reporting requirements, review and consultations, were intended to ensure that there was full transparency regarding the implementation of CARIBCAN by Canada and that the rights of contracting parties under the General Agreement were not unduly impaired.

Mr. Oxley (Australia) supported Canada's request for a waiver to grant special tariff treatment for imports of products from Commonwealth Caribbean countries. Australia anticipated that the proposal could greatly benefit the development of the countries concerned. His delegation understood that, as reflected in the Working Party's report, the waiver applied only to duty-free tariff treatment.

Mr. Williams (Trinidad and Tobago) reiterated his delegation's appreciation to Canada for the CARIBCAN scheme. He recalled that Trinidad and Tobago had expressed similar appreciation to the United States for the Caribbean Basin Economic Recovery Act (CBERA).¹ His delegation praised the objectives of CARIBCAN as stated in the Working Party's report and fully associated itself with those aims. Trinidad and Tobago fully supported the report and the draft decision.

The CONTRACTING PARTIES adopted the Working Party's report (L/6090 and Corr.1)

The Decision (L/6102) was adopted by 52 votes in favour and none against.

¹BISD 31S/20 and 180.

Point 30. Administrative and financial matters

Sub-point 30(c)(ii). Procedures for future appointment of the Director-General

The CHAIRMAN said that his informal consultations on procedures for future appointment of the Director-General had resulted in consensus on the following statement:

"The Director-General should be appointed by the CONTRACTING PARTIES at a regular Session for a term of office of four years. The CONTRACTING PARTIES may reappoint the Director-General for a further term not exceeding four years. The decision to appoint the Director-General for a first term should be taken after a process of consultation to be conducted by the Chairman of the CONTRACTING PARTIES and to be started by an announcement at a meeting of the Council of Representatives not less than six months before the Session of the CONTRACTING PARTIES where the appointment is made.

"Consultations about the reappointment of the Director-General should be conducted by the Chairman of the CONTRACTING PARTIES after an announcement has been made at a meeting of the Council of Representatives, not less than six months before the termination of the first term of office of the Director-General.

"In the event of a vacancy during the term of office of the Director-General, the Chairman of the CONTRACTING PARTIES should conduct as rapidly as possible consultations on the appointment of a new Director-General. The new Director-General should be appointed by the CONTRACTING PARTIES within six months from the date of the vacancy, if necessary at a special Session convened for this purpose. The Council of Representatives will designate one of the Deputy Directors-General as Acting Director-General until the appointment of a new Director-General."

The CHAIRMAN emphasized that he was reporting on the results of his consultations in the form of a statement. This meant that there would be a reasonable amount of flexibility in the future application of the procedures forming part of that statement.

He added that in the course of the consultations, procedures for appointing the Deputy Directors-General had been discussed, although this matter had not been covered by the Council's agreement of 15 May 1986 (C/M/197). It had been agreed to recommend to the CONTRACTING PARTIES to decide that this question be pursued by the Council.

Mr. Khor (Malaysia) said that his country and the other contracting party members of ASEAN could not be parties to the consensus mentioned by the Chairman since they had not been involved in his consultations on

this matter. He added that it was not clear from the Chairman's statement whether the CONTRACTING PARTIES would appoint future Directors-General by consensus or voting. He felt that this point was important and perhaps deserved further reflection. Another point which concerned him, and to which the Chairman had referred in his statement, concerned the rôle of the Council in this matter. He noted that according to the Chairman's statement, only the Chairman of the CONTRACTING PARTIES and the CONTRACTING PARTIES themselves would be involved in the six-month consultation process before the Session at which the appointment would be made. Thus, during that six-month period, there would be no opportunity for contracting parties to examine applications for the post and to record their observations officially. In any case, he saw the Chairman's statement as taking the form of a guideline, and he had made this intervention in that spirit. He hoped that as events developed, there would be an opportunity for the procedures to be improved, both as concerned appointments for Directors-General as well as the Deputy Directors-General.

Mr. Jara (Chile) said his delegation understood that the legal appointment of the Director-General was made by the Interim Commission for the International Trade Organization (ICITO) rather than by the CONTRACTING PARTIES. He wanted to know how that legal fact would be influenced by the procedures which the Chairman had outlined.

Mr. Lindén, Legal Adviser to the Director-General, confirmed that the appointment of a Director-General of GATT was linked to the fact that he was at the same time Executive Secretary of ICITO. In the cases of Mr. Long and Mr. Dunkel, the Executive Committee of ICITO had approved as its Executive Secretary the Director-General designate of GATT. This was mainly a formality because, with two exceptions, the members of the Executive Committee of ICITO were contracting parties to GATT. From a legal point of view, the GATT Secretariat was in fact the Secretariat of ICITO; this arose from a decision taken in 1948.¹ The normal procedure would be that after agreement had been reached on the appointment of a Director-General, the matter would be taken up at a specially convened meeting of the ICITO Executive Committee to confirm the election. There was no reason why this element should be taken up in the context of the procedures now being discussed, which concerned GATT only. He added that consideration was being given to how to avoid this duplication in future, for example, by a general decision by ICITO that it would accept in future any appointment in GATT without the matter having to be raised in the ICITO Executive Committee, which had only met twice since 1948 and solely for this purpose.

¹See Rule 15 of the Rules of Procedure for Sessions of the CONTRACTING PARTIES (BISD 12S/12).

Mr. Khor (Malaysia) asked who the members of the ICITO were and where the International Trade Organization was.

The CHAIRMAN suggested that it would seem unnecessary to take up the history of the International Trade Organization in the context of the present discussion. He also noted that although ASEAN had not been involved in the final stage of the consultations on this matter, it had been active in the earlier stages, with valuable advice having been given by the former Ambassador of Singapore.

The CONTRACTING PARTIES approved the Chairman's report (L/6099).

Mr. Batista (Brazil) expressed his delegation's appreciation for the Chairman's efforts in producing the statement approved by the CONTRACTING PARTIES. The results were positive and would contribute to ensuring transparency in the process of future selection of GATT's highest official.

The CONTRACTING PARTIES then adopted the Council's report (L/6091 and Add.1) as a whole.

Arrangements for the Forty-Third Session

The CONTRACTING PARTIES agreed that the Forty-Third Session be held in the week starting Monday, 30 November 1987, bearing in mind the possibility for the Council to fix dates and the duration of the Session with greater precision in the course of 1987, and even to modify the dates if circumstances made this desirable.

The meeting adjourned at 1 p.m.