

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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THAILAND - RESTRICTIONS ON IMPORTATION OF AND INTERNAL TAXES ON CIGARETTES

Communication from Thailand in Response to the Request for the Establishment of a Panel under Article XXIII:2 by the United States

Thailand has requested circulation of the following communication, which was transmitted at the Council Meeting on 3 April 1990.

Firstly, the Government of Thailand at this stage can agree to the establishment of a panel to objectively examine the complaint of the United States concerning the cigarette import measures maintained by Thailand and to consider arguments and related issues to be presented by Thailand concerning the case. It has always been our intention to follow the dispute settlement rules and procedures that appear in document L/6489 and other relevant GATT documents.

Despite the politically sensitive nature of the issue, Thailand wishes to demonstrate her strong support for the effective dispute settlement procedures within the GATT framework. We share with various small developing countries the hope that, by agreeing to the multilateral rules and procedures, unilateral and bilateral pressures could be effectively prevented. We regret to inform the Council that despite our readiness to follow the procedures as provided for in the GATT, we are simultaneously being put under bilateral procedures according to national laws of our trading partner. We believe that bilateral pressures should be immediately terminated in the light of ongoing procedures in the GATT.

We also trust that the agreed procedures, which are designed for the case involving developing countries, shall be fully applicable. We refer mainly to paragraph A.4 and paragraph F.(f) 7 of document L/6489 and paragraph 6 of the Decision of 5 April 1966. It is essential that consideration relating to the execution of the measures complained of and their impact on the trade and development of Thailand should be taken into account during the Panel process.

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My second point is related to the other part of the complaint by the United States, namely the disparity of the taxes on imported and domestically produced products. We wish to confirm the understanding of the United States that the CONTRACTING PARTIES decided on 17 June 1987 to extend the period during which Thailand could bring into line with Article III of the General Agreement the rates of both taxes as requested by Thailand until 30 June 1990. Cigarettes are one of the products that are included in the tax alignment program implied by the Decision of 17 June 1987.

In the meantime, my delegation would like to emphasize the need for an appropriate way to handle the case so that the present rights of Thailand which are approved by the CONTRACTING PARTIES would not be undermined and their decision thereafter would not be prejudged. Thailand is prepared to consider the terms of reference which would take into account the specific circumstances surrounding this case as we begin the consultation process required by the dispute settlement procedures mentioned above.

Thailand also takes note of certain market access issues alluded to by the United States during our bilateral meetings and in the request appears as document DS10/2 dated 8 February 1990. Although we find the concept of "effective equality of opportunities to compete in the market" as contained in the United States request to be quite a novel concept which could have far-reaching implications on certain basic principles of the GATT, we would not object to the Panel having a look into this concept in the light of existing GATT rights and obligations.

My last point is that we would wish the Panel to be in a position to consult with other international organizations on matters which may be relevant to this case, in particular human health. We believe that without the necessary information from competent international organizations, the reason and logic behind Thailand's policy on cigarette import measures would not be clearly understood.