

GATT/1595
13 September 1993

**TRADE POLICY REVIEW OF KENYA
7-8 SEPTEMBER 1993**

GATT Council's Evaluation

The GATT Council conducted its first review of Kenya under the trade policy review mechanism (TPRM) on 7-8 September 1993. The text of the Chairman's concluding remarks is attached as a summary of the salient points which emerged during the two-day discussion of the Council.

The TPRM enables the Council to conduct a collective review of the full range of trade policies and practices of each GATT member at regular periodic intervals to monitor significant trends and developments which may have an impact on the global trading system.

The review is based on two reports which are prepared respectively by the GATT Secretariat and the government under review and which cover all aspects of the country's trade policies, including its domestic laws and regulations; the institutional framework; bilateral, regional and other preferential agreements; the wider economic needs; and the external environment.

A record of the Council's discussions and of the Chairman's summing-up, together with these two reports, will be published towards the end of 1993 as the complete trade policy review of Kenya and will be available from the GATT Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21.

Since December 1989, the following reviews have been completed: Argentina (1992), Australia (1989), Austria (1992), Bangladesh (1992), Bolivia (1993), Brazil (1992), Canada (1990 and 1992), Chile (1991), Colombia (1990), Egypt (1992), the European Communities (1991 and 1993), Finland (1992), Ghana (1992), Hong Kong (1990), Hungary (1991), Indonesia (1991), Japan (1990 and 1992), Korea, Rep. of (1992), Malaysia (1993), Mexico (1993), Morocco (1989), New Zealand (1990), Nigeria (1991), Norway (1991), the Philippines (1993), Poland (1993), Romania (1992), Singapore (1992), South Africa (1993), Sweden (1990), Switzerland (1991), Thailand (1991), the United States (1989 and 1992) and Uruguay (1992).

Concluding Remarks by the Chairman of the Council

Review of Kenya, 7-8 September 1993

1. These concluding remarks are, as usual, made on my own responsibility. They are not intended to be a complete record of the meeting, but rather reflect my personal assessment of the main points raised in this first Trade Policy Review of Kenya. The full report of the discussion will be circulated in the Minutes of the meeting.

2. I should like to thank the delegation of Kenya for the written replies they have provided to the questions asked and to congratulate them on the lively, professional debate they conducted in this review. The written replies by Kenya to specific questions will be circulated in document form.

I. Broad economic aspects, including development objectives and structural adjustment policies

3. Council members recognized that Kenya had, in May 1993, taken a bold, positive step by liberalizing its trade and foreign exchange régimes, after many years of inward-looking policies and a number of reversals. It was seen as important that the Government clearly demonstrate its determination to pursue its present policy direction, and to ensure that reforms undertaken in the trade and investment fields were consistent, stable and supported by appropriate macroeconomic policies.

4. Some participants recognized the difficulties that had been caused over many years for Kenya, as a major commodity producer, by fluctuations in its terms of trade; these and other economic problems had been exacerbated by the effects on Kenya of political and economic difficulties in neighbouring countries.

5. In reply, the representative of Kenya said that the Government was committed to maintaining the recent liberalization measures of the foreign exchange and trading régime. In particular, the authorities were committed to the ultimate convertibility of the shilling. This would go together with the implementation of appropriate macroeconomic measures to control the government deficit and money supply growth.

II. Trade policy trends and approaches

(a) The import régime, including foreign exchange regulations

6. Participants welcomed the liberalization of the import licensing régime and the important steps taken to rationalize Kenya's tariff structure, although the tariff was still complex, with a high level of effective protection. Kenya was urged to bind its tariffs to the greatest degree possible, in the context of the Uruguay Round, to provide greater stability and predictability. Some participants asked Kenya to provide a list of products still covered by import licensing, and sought clarification of the rôle played by automatic approval of import licences.

7. The liberalization of the foreign exchange régime was also welcomed; some questions were asked concerning the foreign exchange retention scheme. In this connection, some members noted

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that the foreign exchange régime had been subject to frequent changes and asked how likely it was that foreign exchange licences might again be reintroduced.

8. In reply, the representative of Kenya said that maximum duties had been reduced from 135 per cent in 1988 to 50 per cent in 1993; although no tariffs were currently bound under the GATT, the Kenyan authorities would soon make some formal proposals regarding this issue. Import licences had been abolished except on 106 items, where licensing was maintained for conservation, environmental and national security considerations, as well as health and sanitary purposes. For all other products, monitoring was carried out only for statistical purposes at the time of purchasing foreign exchange.

9. The foreign exchange régime had been almost completely liberalized: after a sharp initial depreciation, the value of the Kenya shilling had risen. Now, there was virtually no premium on holding foreign exchange in Kenya.

(b) Export policies, including those relating to sectoral and geographic export diversification

10. Participants recognized that Kenya's export structure was still heavily dependent on a few basic commodities. Questions were posed regarding the schemes in being to promote and diversify exports, including the export compensation scheme; the export pre-shipment financing scheme; the availability of foreign exchange retention accounts; the manufacturing under bond scheme; and the export credit insurance scheme. It was asked whether the Government had analyzed the efficacy of these programmes. Information was also sought concerning the maintenance of export taxes by Kenya with a view to promoting local processing.

11. In reply, the representative of Kenya said that growth in non-traditional exports was a priority, with agro-processing, textiles and intermediate goods as core sectors. Some success had been recorded in exports of textiles. Export processing zones were being successfully developed. The advisory bodies in export policy, largely composed of private sector representatives, were very active. The export compensation scheme had been abolished but duty drawback schemes remained in force.

III. Sectoral aspects

12. Agriculture was recognized as the "backbone" of the Kenyan economy, with 80 per cent of employment in the sector. It was questioned whether the objectives of self-sufficiency and food security might have led to an undesirable degree of Government intervention and created a potential conflict with Kenya's policy of economic diversification. The question was raised to what extent macroeconomic imbalances had given rise to demands for greater sectoral protection.

13. Kenya's rôle as a major exporter of tropical products was recognized; in this context, the need for adequate liberalization in this area in the Uruguay Round was stressed.

14. In reply, the representative of Kenya said that the policy of Kenya was now to move away from the protective system, a move that had been welcomed by manufacturing industry. Self-sufficiency remained, however, a major goal of the country's basic food policy.

IV. Multilateral and regional relationships with trading partners

15. It was noted that Kenya had been a contracting party to GATT since its independence; some participants asked the delegation of Kenya to outline how GATT participation had helped the country's

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economic development. Several members asked Kenya to clarify its intentions with regard to accession to the Tokyo Round agreements and its participation in the Uruguay Round.

16. Kenya was also asked to provide information concerning progress in the Preferential Trading Area (PTA), involving Kenya and other eastern and southern African countries. Some members noted that the PTA should be notified to GATT for examination.

17. In reply, the representative of Kenya said that accession to the Customs Valuation Code would require a change of law through an act of Parliament. The Government had not yet adopted the Customs Valuation Code for a number of reasons, including the risk of under-invoicing, as customs duties continued to provide the Government's main source of revenue. Plans were underway to accede to the Codes which Kenya considered most relevant.

18. The Preferential Trading Area had been established in 1982. Aside from economic and social development, the main goal of the PTA was to expand economic and trade links among its members. Its long term aim was the establishment of a common market for eastern and southern African States by the year 2000.

V. Other issues

19. Members raised questions concerning the rôle of pre-shipment inspection companies in Kenya's trade. Questions were also posed concerning the operation of Government procurement in Kenya. Doubts were expressed concerning the efficacy of Kenya's intellectual property laws, in the light of evidence of considerable piracy and counterfeiting.

20. The unpredictability of permission by the Central Bank for dividend repatriation, and of other aspects of foreign direct investment, was seen by some members as a hindrance to further foreign direct investment.

21. In reply, the representative of Kenya said that his authorities had been satisfied with the operation of the pre-shipment inspection firms, in verifying prices and quantities of goods exported to Kenya. They had not experienced any shortcomings with the scheme.

22. The recently enacted patent and copyright laws would be enforced thoroughly. In particular, an effort would be made to ensure that new products entering the Kenyan market would not be pirated.

23. The issue of delays in dividend repatriation would no longer be a problem following the reform of the foreign exchange régime. Dividends could be freely converted into foreign currency as and when they accrue. The Government was committed to a stable policy environment conducive to encouraging foreign direct investment. No sectors of the economy were any longer closed to foreign investment.

24. Finally, I would note that, after a number of policy reversals, the changes in Kenya's trade policies since May 1993 have been highly appreciated by members of the Council. The Kenyan authorities are strongly encouraged to continue on the path they have chosen. A successful conclusion to the Uruguay Round would provide a healthier environment for liberalization of the Kenyan economy. Kenya's active participation in Uruguay Round commitments would, in turn, make a major contribution to Kenya's own policy reforms and to its standing in the multilateral trading system.

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