

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.7/36

25 October 1952

Special Distribution

PANEL ON COMPLAINTS

Special Import Taxes Instituted by the Greek Government

Note by the Panel

1. On the basis of the documents and statements submitted to it, the Panel has endeavoured to analyse the issues involved in this question with a view to giving some indication to the interested parties as to the direction in which further discussion should proceed, and as to the type of information which would assist the Panel in arriving at conclusions. The Panel emphasises this limited purpose of the present note. It is not intended to prejudice the eventual conclusions of the Panel on the substance of the matter.
2. As the Panel understands the question, the allegation is made that the taxes imposed by the Greek Government are internal taxes within the meaning of Article III of the General Agreement and since they are not applied to domestic products they are in contravention of the provisions of Article III. One of the interested parties has also contended that if these taxes are not considered internal taxes they constitute additional import charges within the meaning of Article II and insofar therefore as they are levied in respect of products which are included in the Greek schedule, are contrary to the provisions of that Article. The Greek Government, in answer to these charges, maintains that the tax system as now applied is not in the nature of a tax or charge on imported goods, but is a tax on foreign exchange allocated for the payment of imports, i.e., that it is equivalent to a multiple currency practice. Accordingly, the Greek Government argues that the tax does not fall within the provisions of Article III of the General Agreement.
3. It seems to the Panel that the principal question arising for determination is whether or not the Greek tax is an internal tax or other internal charge on imported products within the meaning of paragraph 2 of Article III. In reaching a decision on this point the Panel would be guided by the form and method of application of the tax. From the point of view of the interpretation of the General Agreement, the underlying intent of the Greek Government in imposing the tax would not be relevant.
4. In this connection the Panel feels that it is appropriate to quote the comments of the Committee of the Havana Conference which drafted the text of Article 18 of the Havana Charter which with a few verbal changes replaced the original text of Article III of the General Agreement:

"Reports of Committees and Principal Sub-Committees"

Paragraph 39.- "The Sub-Committee considered that charges imposed in connection with the international transfer of payments for imports or exports, particularly the charges imposed by countries employing multiple currency practices, where such charges are imposed not inconsistently with the Articles of Agreement of the International Monetary Fund, would not be covered by Article 18. On the other hand, in the unlikely case of a multiple currency practice which takes the form of an internal tax or charge, such as an excise tax on an imported product not applied on the like domestic product, that practice would be precluded by Article 18. It may be pointed out that the possible existence of charges on the transfer of payments insofar as these are permitted by the International Monetary Fund is clearly recognised by Article 16."

5. If this interpretation is applied to Article III, it would appear that if the Panel decide that the Greek measure does take the form of an internal tax or charge, it would in any case fall within Article III.
6. On the other hand, if the Panel should accept the contention of the Greek Government that the tax is not in the nature of a tax or charge on imported goods, but is a tax on foreign exchange allocated for the payment of imports, the question would arise whether this was a multiple currency practice and, if so, whether it was in conformity with the Articles of Agreement of the International Monetary Fund. These matters would be for the determination of the International Monetary Fund. If the Fund should find that the tax system was a multiple currency practice and in conformity with the Articles of Agreement of the International Monetary Fund, it would fall outside the scope of Article III. If, however, the Fund should find either that the tax system was not a multiple currency practice, or, although a multiple currency practice, was not in conformity with the Articles of Agreement of the International Monetary Fund, it would come within the scope of Article III.
7. It would therefore be helpful to the Panel if further discussion of this matter could be directed towards elucidating the nature of the tax, and in particular, the method by which it is levied insofar as this may throw light on its nature.
8. Even if the Panel finds that the tax is not within the ambit of Article III (or Article II) the further question may arise under Article XV(4) whether the action of the Greek Government constitutes frustration by exchange action of the intent of the provisions of Article III (or Article II) of the General Agreement.

