

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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COUNCIL

## COUNCIL OF REPRESENTATIVES

### Draft Report on Work since the Thirty-Fourth Session

#### Addendum

#### 6. Recourse to Article XXIII

##### (a) European Communities

##### (i) Refunds on exports of sugar

##### - Recourse by Australia (C/M/135)

In October and November 1978 the Council had considered the Australian complaint relating to EEC sugar export practices and had established a Panel to examine the matter.

At its meeting on 6 November 1979 the Council considered the report of the Panel and its conclusions which the Panel had reached unanimously.

The representative of Australia welcomed the report which vindicated Australia's complaint concerning EEC subsidy practices on sugar. The report was a test case in that it would determine whether international action in the field of export subsidies on agricultural products was possible within the GATT. He mentioned a number of important points which emerged from the Panel's findings, viz. (i) that the export refunds of the EEC were a subsidy; (ii) that the EEC had significantly increased its exports of heavily subsidized sugar; (iii) that the EEC system of sugar exports had depressed prices, had a destabilizing influence on world markets and thereby caused serious prejudice to all sugar exporters, including Australia; and (iv) that the EEC sugar export system contained no element to prevent it from obtaining more than an equitable share of world export trade in sugar.

He pointed out however, that although the Panel had examined what had happened to exports of both the Community and Australia, it had passed over the very important indirect effects in its deliberations. Australia would regard as the more relevant issue the question whether or not the Community had gained an inequitable share of world trade.

The representative of Australia pointed out that the Community had been found to be in breach of Article XVI:1 in that its system of sugar subsidies caused or threatened serious prejudice. He believed that therefore, the CONTRACTING PARTIES were entitled to ask the Community what action it intended to take and in what time framework it intended to act to bring its system into compatibility with Article XVI:1. He believed that it was appropriate to commence consultations between the CONTRACTING PARTIES and the European Communities on the causes and effects of the Community system.

Several delegations spoke on this matter. It was noted that the Panel had recognized the damaging effects of the Community subsidy policies on the world sugar market. The Panel had been careful not to rule out the possibility that the Community had indeed gained, through its subsidy policy, more than an equitable share in the world export trade in sugar. There was also support for the request by Australia for corrective action to be taken by the European Communities. One delegation suggested that the contracting parties consider jointly under the provisions of Article XXXVIII:1 how the adverse effects for the trade of developing countries could be rectified.

The representative of the European Communities could accept the conclusions as a whole but was reluctant to interpret specific parts of the conclusions which were delicately balanced. He noted that the Community system as such had not been condemned, and that it was rather its effects that caused some problems. It might also have been desirable to distinguish more clearly between what was structural and what was conjunctural. He noted that the Panel was not in a position to conclude that the Community had obtained more than an equitable share in the world sugar market. He did not share the view that the European Communities were responsible for the depressed prices in the world sugar market, nor that that the Community system constituted a threat of prejudice. Furthermore, he could not accept that serious prejudice had been caused to Australia. He assured the Council that all possible measures that could be taken by the European Communities would be implemented.

The Council adopted the report and agreed that, in the light of the report and taking into account the comments made, the matter should be discussed again at an early meeting.

- Recourse by Brazil (C/M/132, 135)

[The following should be added at the end of this section on page 8 of C/W/324.]

At its meeting on 6 November 1979 the Council was informed of the new composition of the Panel.

The Council took note of the information.

(ii) Restrictions on imports of apples from Chile (C/M/134, 135)

[The following should be added at the end of this section on page 8 of C/W/324.]

At its meeting on 6 November 1979 the Council was informed that in spite of intensive bilateral consultations between Chile and the Community it had not been possible to reach a mutually satisfactory solution. The Council established a Panel to examine the matter referred to the CONTRACTING PARTIES by Chile and authorized the Chairman of the Council to nominate the chairman and the members of the Panel in consultation with the two parties concerned.

(b) Japan

(i) Restraints on imports of leather

- Recourse by the United States (C/M/132, 133, 134, 135)

[The following should be added at the end of the present section on pages 9 and 10 of C/W/324.]

At its meeting on 6 November 1979 the Council was informed that these technical discussions had been concluded.

The Council adopted the report of the Panel.

- Recourse by Canada (C/M/135)

At its meeting on 6 November 1979 the Council received a complaint by Canada relating to Japanese restrictions on imports of leather (L/4856). As intensive bilateral discussions were presently being held between the two parties the Council agreed to defer the matter to its next meeting.

(c) Norway

- Restrictions on imports of textiles from Hong Kong (C/M/134, 135)

[The following should be added at the end of this section on page 10 of C/W/324.]

At its meeting on 6 November 1979 the Council was informed of the composition of the Panel.

(d) Spain

- Tariff treatment of unroasted coffee (C/M/135)

At the meeting of the Council on 6 November 1979 the representative of Brazil said that his delegation had requested consultations under Article XXII:1 with Spain on the question of modifications in the Spanish tariff for unroasted coffee. Because in the meantime discussions of a general nature were being held in Madrid between the two parties, he requested that he be given an opportunity at a future meeting of the Council to revert to this matter, if necessary.

The Council so agreed.

8. Customs unions and free-trade areas; regional agreements

(b) Australia-Papua New Guinea Agreement (C/M/135)

At its meeting on 6 November 1979 the Council considered the report on the operation of the Papua New Guinea-Australia Free Trade and Commercial Relations Agreement, submitted by the delegation of Australia (L/4848).

The Council took note of the report.

(d) European Communities

(i) Accession of Greece (C/M/134, 135)

[The following should be added at the end of this section on page 12 of C/W/324.]

At its meeting on 6 November 1979 the Council established a working party for the examination of the provisions of the documents concerning the accession of Greece to the European Communities.

(f) Agreements concluded by Finland

(ii) Finland-Czechoslovakia Agreement (C/M/134, 135)

[The following should be added at the end of this section on page 13 of C/W/324.]

At its meeting on 6 November 1979 the Council considered the second report of the Working Party on the examination of the provisions of the Agreement between Finland and Czechoslovakia (L/4837). The Council took note that the Working Party had not been able to reach any unanimous conclusion as to the compatibility of the Agreement with the provisions of the General Agreement and as to the continuation of the work of the Working Party.

The Council adopted the report.

(iii) Finland-German Democratic Republic Agreement (C/M/134, 135)

[The following should be added at the end of this section on page 13 of C/W/324.]

The Working Party met again in September 1979 to continue its examination under the terms of reference agreed by the Council in November 1975. The Working Party agreed that the chairman would make an oral report to the Council.

At its meeting on 6 November 1979 the Council took note of the report and noted that the Working Party had agreed to meet again in approximately eighteen months.

10. Report under waivers

(b) United States

(ii) Automotive products (C/M/135)

At its meeting on 6 November 1979 the Council took note of the annual report by the Government of the United States under the Decision of 20 December 1965 (L/4847).

12. Accessions, Provisional Accessions

(b) Accession of Mexico (C/M/132, 135)

[The following should be added at the end of this section on page 18 of C/W/324.]

At its meeting on 6 November 1979 the Council considered the report of the Working Party (L/4849). The Working Party had carried out an examination of the Mexican foreign trade régime and had taken up matters relating to Mexico's industrial development plan, tariffs and additional duties, the customs valuation system, licensing and import restrictions and regulations, consular matters, State trading, export restrictions, etc. Having carried out this examination and in the light of the explanations and statements by the Mexican representative, the Working Party had reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Mexico should be invited to accede to the General Agreement. The Working Party had drawn up a draft Protocol of Accession which referred inter alia to Mexico's programme of gradual substitution of tariff protection for prior permits, its system of valuation and the National Plan for Industrial Development.

Many delegations welcomed the accession of Mexico. They considered the report and the Protocol of Accession to be an important expression of the political will of both Mexico and its trading partners to find co-operative solutions on the basis of which Mexico could become a contracting party to the GATT.

The Council approved the text of the draft Protocol of Accession with the understanding that the Schedule LXXVII - Mexico would be circulated as soon as possible as an addendum to the Working Party's report and would be annexed to the Protocol of Accession. The Council also approved the text of the draft Decision and agreed that the Decision would be submitted to a vote by postal ballot when the Mexican Schedule had been circulated.

The Council adopted the report of the Working Party.

The representative of Mexico expressed his appreciation for the work of the Working Party. He stated that his authorities were in the process of consulting all interested sectors in his country in order to obtain their views on the terms of the Protocol and the tariff concessions which Mexico had been negotiating.

### 13. Safeguards (C/M/134, 135)

At its meeting on 6 November 1979 the Council continued its considerations of this matter.

Several representatives of developing countries expressed strong support for the Director-General's proposal. They stressed the importance of the three elements of the proposal, i.e. the establishment of a committee to pursue the negotiations, an undertaking to abide by disciplines according to agreed interpretations, and the surveillance of safeguard measures. Some of these representatives considered it essential that negotiations on safeguards be continued even after the formal conclusion of the MTN. Some delegations indicated that if the present proposal presented difficulties for some other delegations, they would be ready to co-operate with them in working out a solution on the basis of a simplified proposal. The objective should be the establishment of a committee to pursue the negotiations. Such a committee should be open to all countries which had participated in the MTN.

Several representatives of developed countries expressed their readiness to pursue negotiations on safeguards as a matter of urgency. While agreeing on the establishment of a committee for this purpose, some of these representatives considered that the Committee should concentrate on this specific task. The Committee should, therefore, not be charged at the same time with examining individual safeguard measures. This might moreover have the effect of giving premature recognition to certain types of actions, thereby prejudging in some important respects the outcome of the negotiations.

The Council agreed that further efforts should be made to find a satisfactory solution to this issue and that it would revert to this matter at its next meeting.

13 bis Implementation of UNCTAD Resolution 131(V) (C/M/135)

At the meeting of the Council on 6 November 1979 the representative of India referred to paragraph B.8 of UNCTAD Resolution 131(V), which invited GATT to examine in an appropriate body any case of future protective action by developed countries against imports from developing countries. He urged that appropriate machinery for carrying out this examination be established.

The Council agreed to revert to this matter at its next meeting.

13 ter. Relationship between agreements evolved in the MTN and the GATT

At the meeting of the Council on 6 November 1979 representatives of developing countries drew attention to the far-reaching effects on the international trading system of the new agreements negotiated in the framework of the MTN. Participation of developing countries in the negotiations had sometimes only been marginal, as a result of which some of their important concerns were not reflected in the agreements. Furthermore, it would take a long time for many developing countries to accept or accede to the agreements. It was therefore, of major concern to developing countries contracting parties that they secure formal assurances that their rights under the GATT were not affected, if they did not subscribe to the agreements. They were concerned to see that in the rules being formulated some of the advantages under the agreements were proposed to be extended only to the signatories of the agreements. This matter would need attention. In this connexion they stressed the importance they attached to the provisions of unconditional most-favoured-nation treatment of Article I of the General Agreement.

These representatives also noted that there were cases in which the agreements extended obligations beyond the GATT, or interpreted the GATT in a certain manner. Considering the large area of international trade law and policy which was covered by the agreements and which would be administered by Committees of Signatories, they considered it essential to maintain the unity of the GATT system. Therefore, and in order to protect the rights of contracting parties these Committees should function as part of the GATT system and under the overall supervision of the CONTRACTING PARTIES.

These representatives considered it also necessary that non-signatories with a particular interest in an area covered by an agreement should have the right to attend, at least as observers, the deliberations of the Committee. It was only in this manner that they could sufficiently follow the developments of the case law which might affect them and safeguard their interests. These representatives would therefore seek a decision by the CONTRACTING PARTIES on the participation of interested countries, at least as observers, in the Committees.

Some of these representatives were also in favour of a pragmatic approach, setting aside any legal questions for the moment. If, in the course of the operation of any of the agreements, any problem would arise in regard to the erosion of GATT rights, one could always revert to the legal question and discuss how to deal with these problems.

Some representatives of developed countries, while recognizing the legitimate desire of the developing countries to follow developments in the Committees, doubted whether participation of all developing countries in all Committees would be the most efficient method for safeguarding their interests. They were prepared to co-operate in finding a suitable solution to this problem.

It was proposed that the Council revert to this matter at the next meeting in order to prepare a recommendation for the CONTRACTING PARTIES on how to proceed.

The Council agreed to revert to the matter at its next meeting.

14 bis Romania - Consultation on trade (C/M/135)

The Protocol for the Accession of Romania provides for consultations to be held biennially between Romania and the CONTRACTING PARTIES in order to carry out a review of the development of reciprocal trade between Romania and the CONTRACTING PARTIES.

At its meeting on 6 November 1979 the Council established a working party to conduct the third consultation with the Government of Romania.

16. De facto application of the GATT to newly-independent countries (C/M/135)

At its meeting on 6 November 1979 the Council considered the fourth report by the Director-General on the application of the Recommendation of 11 November 1967 (BISD 15S/64), inviting contracting parties to continue to apply the General Agreement de facto in respect of newly-independent territories on a reciprocal basis. (L/4846 and Add.1.)

The Council took note of the report and invited the Director-General to remain in contact with the governments of the States concerned and to report again on the application of the Recommendation within three years.