

GENERAL AGREEMENT ON TARIFFS AND TRADE

Working Party on Trade with Hungary

RESTRICTIONS ON IMPORTS FROM HUNGARY

Note by the Secretariat

On 26 May 1986 the Director-General received the following letter from the Permanent Representative of Hungary to GATT:

"I have the honour to submit to you in written form the question we raised relating to agenda item 7 of the GATT Council at its May 22nd session with reference to document L/5977/Add.1 (Joint report - By the Delegation of Hungary and of the European Community to the Chairman of the GATT Working Party on Trade with Hungary).

"The Hungarian delegation would be grateful to have the GATT Secretariat's legal view on the following:

"Paragraph 4(a) of the Protocol for the Accession of Hungary to the GATT reads: 'Contracting parties still maintaining prohibitions or quantitative restrictions not consistent with Article XIII of the General Agreement on imports from Hungary shall not increase the discriminatory element in these restrictions and undertake to remove them progressively.' What kind of restrictions and prohibitions would, in the opinion of the Secretariat, fall under the definition 'prohibitions or quantitative restrictions not consistent with Article XIII of the General Agreement'?

"I would very much appreciate, Mr. Director-General, if the Secretariat's view could be circulated to all contracting parties, given the fact that many of them demonstrated a certain interest in the respective debate of this issue at the last Council meeting."

On 13 June 1986, the Director-General sent the following reply to the Permanent Representative of Hungary:

"In your letter (ref. 113/1986/Si/Szi) dated 26 May 1986 you ask for an opinion by the secretariat on the kind of restrictions or prohibitions that would fall under the definition "prohibitions or quantitative restrictions not consistent with Article XIII of the General Agreement", contained in paragraph 4(a) of the Protocol for the Accession of Hungary to GATT.

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"As you are well aware, an interpretation of a provision of the General Agreement can only be given by the CONTRACTING PARTIES. The same rule applies to provisions of an accession protocol of a contracting party for which, because of the special aspects of its trading system, the relevant provisions are those of the accession protocol rather than those of the General Agreement itself. Therefore, what I can offer you in reply to your letter is an opinion by the secretariat that can be contested by any contracting party. On this understanding, I am setting out hereunder the views of the secretariat on the issue raised in your letter.

"Article XIII, paragraph 1, reads: "No prohibition or restriction shall be applied by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation of any product destined for the territory of any other contracting party, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted". Any prohibition or restriction maintained by a contracting party which is applied to imports from Hungary but is not also applied to imports from all other countries (with possible exception for other members of a customs union or a free-trade area) would therefore fall under the provisions of paragraph 4(a) of the Protocol, regardless of whether it is applied to imports from Hungary only or to imports from one or more other countries.

"The text of this letter is being communicated to other members of the Working Party on Trade with Hungary."