

GENERAL AGREEMENT ON
TARIFFS AND TRADE

UNITED STATES IMPORT RESTRICTION ON
AGRICULTURAL PRODUCTS

Report of the Working Party

1. The Working Party on United States Import Restrictions Waiver was established by the Council on 26 March 1980 with the following terms of reference:

"To examine the twenty-second annual report (L/4925) submitted by the Government of the United States under the Decision of 5 March 1955^{1/}, and to report to the Council."

2. The Working Party met on 28 May and on 23 June 1980 under the Chairmanship of Mr. C. Magnus P. Lemmel (Sweden).

3. In accordance with its terms of reference, the Working Party has examined the twenty-second annual report submitted by the Government of the United States under the Decision of 5 March 1955, on import restrictions in effect under Section 22 of the United States Agricultural Adjustment Act as amended, on the reasons for the maintenance of these restrictions, and on the steps taken with a view to a solution of the problem of agricultural surpluses. On the basis of the report and with the assistance of the representative of the United States, the Working Party has reviewed the action taken by the United States Government under the Decision.

4. The representative of the United States, introducing the report submitted by his Government, said that, since its enactment, Section 22 had been used sparingly and only as absolutely necessary. He recalled that the utilization of Section 22 powers to establish quotas or import fees was confined exclusively to commodities which were subject to support programs and that import restriction under Section 22 currently in force applied to four groups of commodities: cotton and cotton waste^{2/}, peanuts, sugar, and dairy products. Summarizing recent developments with respect to the commodity programs and imports controls concerned, he noted that on 31 March 1980, a special temporary import quota had been imposed on upland cotton in addition to the existing quota established under Section 22 authority.

^{1/} BISD, Third Supplement, page 32.

^{2/} Upland type cotton; long staple cotton and certain cotton waste and cotton products.

5. With reference to dairy products, the representative of the United States went on to say that important changes had taken place since the last annual report as a consequence of the agreements reached in the MTN. He recalled that his Government had made important concessions in the framework of the MTN with respect to import quotas for certain cheeses and chocolate crumb and to the system of their administration. He stressed that the implementation by the United States of its MTN agreements on dairy products was taking place during a period of particular difficulties, both economically and politically.

6. The representative of the United States furthermore said that his Government had attempted to administer the import restrictions imposed under Section 22 in a fair and open manner and to carry out responsibly its obligations under the waiver. He stated that the United States was prepared to consult with its GATT partners on any problems which might arise. Further, the United States keeps the situation under continuing review and will carefully examine whether the present arrangement should be changed. He noted that the basic United States farm legislation which authorizes and directs the Government to carry out the support programs for the commodities concerned was subject to renewal next year. He was ready to note and convey to his authorities any comments the Working Party would wish to make and was ready to answer any questions.

7. The Working Party was grateful for the introductory comments given by the representative of the United States. Several members, however, expressed concern with the maintenance of this waiver and with the fact that alternative policies had not been pursued. They felt that the annual report did not entirely fulfil the obligations taken by the United States under the CONTRACTING PARTIES' Decision of 5 March 1955, and in particular those set out in condition 6 of that Decision.

8. A member of the Working Party pointed out that if the problem of surpluses of certain agricultural commodities was a structural one, then the recourse to temporary measures could not result in a positive solution, while, if the problem was one of a conjunctural nature, the measures already taken over twenty-five years had to be regarded as not effective. In both cases, in his view, the waiver was not justified.

9. With reference to the operation of the restriction under the waiver, a further member noted with satisfaction that the list of products subject to import restriction had not been shortened as to cover four commodity groups. He expressed, however, deep concern over the existing restrictions and over the fact that those temporarily suspended could presumably be reinstated. In his view, more information was needed on the coverage of products which were subjected to action under Section 22, on the terms of suspension for the products which were previously subject to restrictions, and on legal possibilities to remove on a permanent basis those restrictions which were temporarily suspended.

10. A member of the Working Party recalled that during the recently concluded MTN, the United States was prepared to negotiate a dismantling of Section 22 quotas against commitments by other countries to pursue policies aimed at eliminating unfair export practices, and, in particular, export subsidization. He argued that, in his view, that constituted a recognition by the United States that the circumstances under which the waiver was granted had changed, the actual problem not being one of agricultural surpluses but of subsidized exports. He pointed out that a "change in circumstances" was the basis on which the United States in 1955, undertook to terminate or modify its Section 22 quotas, and that, with regard to subsidized exports, the United States has the same protection from such practices as other contracting parties, namely recourse to the provisions of the General Agreement. Additional protection was available to the United States in the form of the Code on Subsidies and Countervailing Duties and in its own domestic legislation.

11. Several members of the Working Party stated that the Government of the United States in its annual report should have paid more attention to changes in those circumstances which had led the CONTRACTING PARTIES to grant the waiver in 1955. They also suggested, as they had in the past, that the United States Government should consider alternative measures, including adjustment measures, for stabilizing the domestic markets without recourse to quota restrictions on imports.

12. In its examination of the report, the Working Party devoted special attention to the section dealing with dairy products. In this connexion, several members of the Working Party felt that the United States had particularly failed to make progress for this group of commodities in terms of the obligations it accepted when the waiver was granted.

13. A member of the Working Party stated that, in his opinion, a review of the events of the last twenty-five years showed that, at least in the field of dairy products, the United States had pursued a policy not envisaged by the CONTRACTING PARTIES when the waiver was granted. He said that, by maintaining dairy support prices at levels too high in relation to its obligations under the waiver, the United States had indeed pursued a long-term policy of self-sufficiency in the dairy sector - an option that was not envisaged by the CONTRACTING PARTIES when they had granted the waiver. In his view, even within existing legislative provisions, the United States could have done much more to hold the rate of increase of dairy support prices to a level that would have reduced dairy surpluses and permitted greater access for imports. He noted that the dairy trade was of crucial importance to the economy of his country. He stated that after twenty-five years the circumstances that existed when the waiver was granted have substantially changed. Commenting in particular on certain economic features of and developments in the United States dairy industry, he stressed that

the report failed to address these changes and the effect that those could have had in supporting some modification or termination of import restrictions. He recalled that at the time the waiver was granted there had been discussion of the use of basic measures, in the context of the search for solutions to the problem of continuing surpluses. He thought that these should be tried again. He noted that other reports by United States Government agencies recognized the possibility for real alternatives to the present severe restrictions on dairy imports and the need to undertake studies in this respect and urged that these be presented. He pointed out that despite continuing increases in consumption of cheese, controls on this product had been tightened. He stated that the annual report also failed to provide an indication as to the future intentions of the United States with respect to complying with the obligations of the waiver, and he requested the representative of the United States to provide such information.

14. A further member of the Working Party also said that, despite a time period of twenty-five years, little positive action had been taken by the United States in the field of dairy products to meet the conditions of the waiver. He noted that, on the contrary, production incentives had been increased and that the surplus conditions initially cited as justification for the waiver had been exacerbated. He felt that these developments were reflected by the fact that the scope and restrictive nature of the original Section 22 dairy quotas had been progressively widened so that almost all dairy products were now covered by these arrangements. In his view, it was apparent that the heart of the problem stemmed from the domestic support measures applied by the United States which had been progressively increased both in actual and real terms with the consequence that dairy surpluses had become a permanent feature of the United States dairy industry. He went on to say that another important consequence of the high price support policy had been to discourage consumption of dairy products in the United States, further aggravating surplus accumulation and limiting the size of the market for both imports and domestic production. He also expressed serious concern about the fact that surpluses had been disposed of by the United States in certain commercial markets, with little or no consultation with other exporters. In the light of these considerations, he asked the representative of the United States whether his authorities regarded the question of structural surpluses as a continuing problem and, if so, whether they were considering the replacement of the unsuccessful measures applied so far with other measures more appropriate to tackle those surpluses. He stressed that the dairy industry in his country has had to bear an unequal share of the burden of adjustment due to the lack of rationalization in other countries. The dairy industry in his country had undergone extensive rationalization at considerable social and economic cost and he felt that commensurate adjustment measures by others - including the United States - were long overdue.

15. With respect to the quota on cheese applied since 1955 by the United States under the provisions of the waiver, a member asked whether in the light of the significant development which had occurred over this period in the export capacity of the milk industry of some countries and of important changes in trade policy relations between certain countries, the United States had a position on the question of the situation of eventual new suppliers, and how the United States intended to treat these suppliers within its cheese quota. Referring more specifically to the case of his country he said that his country, which had a substantial interest in supplying cheese to the US market, was not included in the United States import quota on cheese and that it would like to get an equitable share within this quota. He added that the past performance of his country did not adequately reflect its supplying interests but this was due to special factors as the existence of the quota in which his country had not had a share and the lack of m.f.n. treatment between the United States and his country until 1978.

16. With reference to the Program Activity in the field of dairy products, a member of the Working Party asked the representative of the United States to explain the difference between the price support and related programmes and the Special Milk Programme. He also asked him what products were covered by the Special Milk Programme and if any figure relating to the expenditure under this programme was available for 1980. The existence of the waiver gave rise to an imbalance between the rights and obligations of the various contracting parties resulting from their participation in the General Agreement, and consequently that member reserved his rights under the GATT with respect to the waiver. He also said that the United States should not extend the coverage of the waiver to any other product of the sectors covered by the waiver.

17. With reference to the question of substitutes for dairy products, a further member of the Working Party asked whether in the United States measures existed aiming at affecting, either in a positive or a negative way, the supply-demand patterns of these substitutes.

18. Recalling that casein was currently the subject of a Section 332 enquiry in the United States under the United States Trade Act of 1974, a member of the Working Party asked the United States representative for an indication of the current status of that enquiry. He added that the basic argument used by those favouring import restrictions on casein - that it competes with domestic sales of skimmed milk powder - was spurious, competition to SMP sales in the United States coming from increasing United States production of whey powder.

19. Replying to the various points made, the representative of the United States stated that although twenty-five years had elapsed and certain changes had occurred, the underlying problems which had pressed the United States to request a waiver in 1955 still remained. He stressed, however, that the United States had always met its obligations, fulfilled its requirements, and submitted reports as stipulated under the waiver. In reply to the question whether different treatments were applied in the United States to substitutes for dairy products, he said that both animal and vegetable fats were subject to the same requirements in the domestic market. In response to the question concerning a possible introduction of quantitative restrictions on casein under Section 22, the representative of the United States indicated that a recent investigation by the International Trade Commission had concluded that no ground existed at present for introducing such restrictions. Under current legislation, the dairy import quotas may not be expanded except through regular Section 22 procedures initiated by a recommendation by the Secretary of Agriculture to the President that increased imports will not materially interfere with the domestic price support program for milk. With net removals by the Commodity Credit Corporation for this marketing year expected to total seven billion pounds, milk equivalent, at a cost to the Government of approximately \$1 billion, no such recommendation is possible. Total cost of CCC Dairy program purchases for the 1978-79 fiscal year was \$246.7 million. Estimated cost for the present fiscal year ending 30 September 1980 is \$1,001.7 million. Special programs for increasing dairy products consumption aims at bringing supply and demand more nearly into balance. Such programs currently in operation include (a) addition of mozzarella cheese to items provided by CCC to the school lunch program; (b) expansion of the food stamp program; (c) increased participation in the womens-infants-children (WIC) program, which provides financial assistance to certain disadvantaged groups for increased food purchases, including dairy products; (d) the bonus program, under which certain community welfare programs may obtain extra supplies of certain foods, including dairy products, free of charge after satisfying specified basic procurement requirements; and (e) increased distribution on Indian reservations.

20. Noting that most of the discussion had focussed on dairy products, the representative of the United States pointed out that other countries maintained restrictions on this group of commodities and that most of these restrictions were not even being discussed and consulted upon in the GATT.

21. Referring to a point made by a member of the Working Party, he recalled that the United States had been prepared to negotiate its dairy restrictions in the course of the MTN with a view to finding a global solution to the problems of the dairy sector. It was for that reason that the United States had joined the International Dairy Arrangement.

22. In reply to a further question, the representative of the United States indicated that the total cheese quota in force for 1980 was larger than the 1979 import into his country of those cheeses covered by the quota. Thus, in his view, opportunities existed for countries to increase exports of these cheeses to the United States. He noted that the price element was not the sole consideration to be taken into account in explaining the level of consumption of dairy products. He argued that in the United States and other countries as well, health considerations were a significant factor, and that the concern about the level and types of fats in the diet also played an important rôle in determining the consumers behaviour.

23. Turning to the question of possible alternatives to quota restrictions, he went on to say that within the United States competent agencies consideration was being given to various alternatives, but that, as at the moment, those alternatives were not deemed appropriate to the situation, because of technical and economic reasons.

24. With respect to the request put forward by some members of the Working Party that his authorities should be invited to undertake a revision of the annual report under examination, the representative of the United States said that this would not be an appropriate procedure. He suggested that some of the questions raised by the Working Party could be dealt with more appropriately in the annual report which would be submitted in time for the next meeting of the CONTRACTING PARTIES in November of this year. At that time, if necessary, a new working party could be established in order to examine that report.

25. In his concluding remarks, the representative of the United States addressed the question of product coverage of Section 22 and the status of measures temporarily suspended. In this connexion, he recalled that Section 22 provisions applied only to those products which were subject to price support programs. He also noted that a very rigorous procedure was required in order to implement Section 22 provisions. Concerning those items temporarily suspended, they would be subject to the terms under which they had been suspended.

26. A member was not satisfied with the reply given by the United States representative with respect to the quota on cheese applied by the United States and indicated that he would revert to the matter in the Council.

27. The Working Party noted the various statements made by the representative of the United States. Several members felt, however, that the information contained in the report was not complete and that in its present form it could not provide any longer a basis for a full examination as envisaged under the waiver.

28. Referring to dairy products in particular, some members of the Working Party recalled the importance their governments attached to a satisfactory resolution and termination of the restrictions under the waiver. They stated that the United States should undertake a fundamental reassessment of its dairy import policy, including the levels of permitted dairy imports. The careful reappraisal should be made against the terms and conditions of the waiver granted in 1955. The results of the reappraisal should be included in

the next annual report submitted to the CONTRACTING PARTIES. They expressed the view that the United States should provide a detailed assessment of how it had performed in the dairy sector in relation to the terms of the waiver. Further, the United States should give particular attention to why they had so far not been able to liberalize, let alone dismantle, the import restrictions maintained under the waiver. The possibility of using alternative measures should also be addressed. They requested information on initiatives which the United States intends to take in order to prevent or moderate production of dairy surpluses in the future and to encourage greater domestic offtake of dairy products. They also requested a clear indication on behalf of the United States, to be included in his next report, about when and how the United States authorities envisaged to terminate the restrictions under the waiver, particularly on dairy products.

29. One member of the Working Party requested that the next annual report list those commodities to which Section 22 could be applied and to indicate what procedures are required to be taken in order to remove on a permanent basis those restrictions which had been temporarily suspended, and to reintroduce a measure under Section 22 which had been suspended.

30. Another member of the Working Party while recognizing the commendable efforts made throughout the Multilateral Trade Negotiations of the Tokyo Round by the United States to achieve a better fulfilment of GATT objectives and obligations by all contracting parties, said that the subject matter under discussion provided an excellent opportunity for the United States to continue to strive in the same direction.

31. The Working Party noted that the representative of the United States stated that his country had both lived up to the commitments of the waiver and had fulfilled its requirements faithfully. In his view, the use of import restrictions on agricultural products should be regarded as a global problem, one that the United States could not be expected to try to solve alone. In that spirit, in its next annual report, he expressed the willingness of his authorities to endeavour to provide such further information requested by members of the Working Party. He further stated he would report fully to his authorities the result of the Working Party and transmit all suggestions, comments and questions which had been made. He expressed his thanks to the members of the Working Party for the constructive spirit which had prevailed during the course of the meeting.

32. Members of the Working Party expressed their gratitude to the representative of the United States for his co-operative attitude and the frank way in which he had taken part in the discussion.