

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/5569

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Limited Distribution

UNITED STATES IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS

Report of the Working Party

1. The Working Party was established by the Council on 20 April 1983, with the following terms of reference:

"To examine the twenty-fifth annual report (L/5469) 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 19 September 1983 and on 19 October 1983, under the chairmanship of H.E. Ambassador F. Grunwaldt Ramasso (Uruguay).

3. In accordance with its terms of reference, the Working Party carried out its examination of the twenty-fifth annual report on import restrictions in effect under Section 22 of the United States Agricultural Adjustment Act as amended^{2/}, on the reasons for the maintenance of these restrictions, and on steps taken with a view to a solution of the problem of agricultural surpluses in the United States. On the basis of the report, and with the assistance of the representative of the United States, the Working Party reviewed the action taken by the Government of the United States under the Decision of 5 March 1955.

4. In his opening statement, the representative of the United States regretted that the twenty-fifth report which had been submitted in March 1983 was reviewed only now by the Working Party. He indicated that the next annual report would be submitted in time by November 1983. He recalled that the restricting measures taken by the United States under the waiver would also be subject to discussions at the next meeting of the Committee on Trade in Agriculture in October 1983.

5. He went on to present the annual report under examination by the Working Party, illustrating additional changes that had taken place in Section 22 controls since the report was prepared. He indicated that an independent investigation by the International Trade Commission had concluded that the

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

^{2/} Import restrictions pursuant to Section 22 currently in effect included cotton of specified staple lengths, cotton waste and certain cotton products; peanuts; certain dairy products; and sugar and syrups.

emergency measures on sugar imports taken in May 1982 were necessary and justified. The ITC had recommended the maintenance of the existing duties, fees and quota systems on sugar. Additionally, it had recommended that the import fee on refined sugar replace the quota, which was taken under separate legal authority, when the quota was no longer necessary to back up the duties or fees. A Presidential action on the ITC report was expected in a not too distant future.

6. He further indicated that three new tariff items relating to certain blends and mixtures of sugar and other ingredients had been placed under quota. These were newly invented items designed to circumvent the sugar quota. The regular items of trade were not affected.

7. Turning to more general points, he noted that the twenty-fifth report contained an explanation on the reasons why his authority considered that other measures, and in particular countervailing duties, could not be regarded as a viable alternative to existing Section 22 controls. He stressed that the measures taken under the waiver were kept under continuing review by his authorities and that his country had always taken its obligations under the waiver very seriously.

8. Commenting on the twenty-fifth annual report, several members of the Working Party pointed out that this report depicted a situation of continuing market disequilibrium with no serious efforts being made by the United States to eliminate once and for all the underlying causes of surplus production. Furthermore, it provided no indication of the steps the United States had taken to terminate the waiver.

9. They reiterated their views, often expressed during the examination of previous annual reports, that the waiver granted to the United States in 1955 on Section 22 controls did constitute a major derogation from GATT rules and that the United States continued to benefit from special privileges afforded by the waiver which were not available to other contracting parties. This had created a situation of serious imbalance in rights and obligations under the General Agreement. The inequity of this situation was even more serious because if other contracting parties applied restrictions on imports, they could always be challenged under Article XXIII proceedings which, while applicable, were not practicable with regards to restrictions applied by the United States under the waiver.

10. Some members also pointed out that the report under examination by the Working Party provided an inadequate justification as to why Section 22 controls could not be replaced with measures consistent with the General Agreement. They considered as a central point for discharging the Working Party's task, a serious and detailed examination both from the economic and legal standpoint of all possible alternative measures under the General Agreement.

11. Having recalled the background against which the waiver was granted to the United States in 1955, a member of the Working Party pointed out that reasons that the United States claimed for the maintenance of the import restricting measures under the waiver in the present circumstances were also applicable to the case of other countries' import restrictions which were taken under the same situation as that existing in the United States. In other words, the situation invoked by the United States for justifying the maintenance of the measures under the waiver was not peculiar to the United States alone.

12. Some members of the Working Party raised the point on whether quantitative restrictions applied by the United States under the waiver could result in freezing market shares. They expressed the view that if alternative measures allowing for the influence of comparative advantages were used, the patterns of imports might be different, better reflecting, inter alia, the interests of developing countries.
13. Some members noted that the annual report dwelled on the strong measures taken by the US authorities to discourage overproduction in milk in the United States. They questioned, however, the effectiveness of these measures in halting the ever increasing build-up of surplus stocks of dairy products in the United States which was confirmed by 1983 estimates. The waiver was surely a useful shield behind which the United States could hide itself, but the dangers to international dairy trade of ever increasing surplus stocks were clear.
14. They further noted that the validity of the waiver, in isolating US programmes from normal international trade rules, could only be argued while these programmes in turn did not impact adversely on international trade. When the United States opted to pursue the avenues of commercial export sales as a means of surplus disposal, it compromised any continued justification for retention of this obsolete waiver, and protection of its domestic industry from commercial imports. In this connection, the recent sale of substantial quantities of butter and cheese to Egypt had been an unsettling development in view of the current downturn in world dairy trade.
15. While recognizing that the United States was not the only country which had been unable to take effective measures against surplus dairy production caused by industry support measures, a member of the Working Party further pointed out that the waiver granted almost thirty years ago to the United States was on the basis of an undertaking to bring supply and demand into balance in the United States. This commitment had clearly not been met.
16. With respect to sugar, a member of the Working Party noted that the annual report under examination depicted a disturbing situation in the US market characterized by high domestic support prices and falling consumption. The import fee sanctioned by the waiver was currently set at zero largely because a system of import quotas was now operating to protect the high US domestic stabilization price from competition with low cost efficient producers. The high price of sugar within the United States had encouraged the increased consumption of alternative sweeteners at the expense of sugar. He expressed, therefore, his concern that if the United States intended to maintain existing levels of domestic production in the face of declining consumption, imports of sugar would inevitably decline in the US market.
17. With respect to cotton, a further member of the Working Party noted that the United States continued to be the leading country in the world cotton economy and that developments in the US cotton policy had, therefore, implications for all other cotton trading countries. While expressing appreciation for the measures taken by the US authorities to reduce cotton production in the United States, notably reduction in acreage, he indicated his concern for the limited impact of these measures on the cotton supply in the United States which was illustrated by dramatic developments in the US cotton stocks. He pointed out that this situation was severely affecting other cotton exporting countries, by and large developing countries, whose economic dependence on cotton exports was much greater than that of the United States.

18. In his reply to the various points made and questions asked, the representative of the United States made reference to a recent statement by the US Deputy-Secretary of Agriculture before the US Senate Committee on Agriculture which clearly indicated the seriousness by which his authority continued to review the situation of the dairy product market.
19. He recalled that strong measures had indeed been taken with a view of reducing the dairy surplus in the United States. The United States had not increased the support price for dairy since 1980 and it had introduced a levy on dairy producers of one dollar per hundredweight. He was aware, however, that these measures had not yet produced all the desired effect, mainly because low level in prices and that the full levy had only become effective on 1 September 1983, but he expected that they would do so in the near future.
20. Regarding certain developments in the United States export policy, he denied that recent sales would form a part of a general United States export policy. He could not rule out the possibility that in future other surplus sales could take place, but he stressed that, in that event, existing commitments by the United States in all relevant forums would be respected.
21. He further stressed that his authorities had taken significant commitments to try to stimulate consumption of dairy products in the United States. Although commercial consumption was going down, it should be noted that a significant increase in global consumption had taken place following the introduction of specific programmes undertaken to that effect.
22. He said that the declining consumption of sugar in the United States was more attributable to changes in dietary habits than to the level of sugar price. He noted, as an example, that a recently introduced sugar substitute had recorded a rapid growth in the demand by consumers despite the fact that it was by far more expensive than sugar.
23. He again noted that the report under examination paid more attention to the question of possible alternative measures, notably countervailing duties. The report showed that these measures were not only too costly but, above all, ineffective to cope with the problems which would be created by the interference of imports with existing support programmes in the United States.
24. He further pointed out that he could not accept the concept that his country was benefitting from unequal rights under the General Agreement because of the waiver. He stressed that the picture which would be likely to emerge from the work of the Committee on Trade in Agriculture would enable contracting parties to better understand their respective level of commitments under the General Agreement, clarifying the equity issue.
25. The Working party noted the various statements made by the representative of the United States. Some members expressed, however, their deep concern that a measure granted for temporary reasons in 1955 had in fact become an instrument of commercial policy by which the United States was pursuing a policy of self-sufficiency which had not been envisaged in the minds of those who originally granted the waiver.

26. The already mentioned recent developments in both dairy products and sugar had reinforced their long-standing objection to the waiver. Moreover, these developments had taken place in conjunction with the introduction of additional measures which these members considered inconsistent with the General Agreement, notably the sugar quotas as had been noted in an earlier Working Party's report (L/5461 para. 16).

27. One member of the Working Party asked whether the United States had considered substituting for the waiver some measures which would be compatible with the General Agreement, i.e. by accepting the disciplines embodied in Article XI.

28. A member of the Working Party further expressed his disappointment with the frustrating procedures of subsequent working parties on the waiver. He pointed out that, after almost 30 years, the time was more than ripe for a general assessment of the waiver in the light of rights and obligations under the General Agreement, and that this would appropriately take place in the context of the work of the Committee on Trade in Agriculture.

29. In this connection, some members also recalled that they had indicated their intention to look to this Working Party, in conjunction with the Committee on Trade in Agriculture, to make early progress on the termination of the waiver. They stressed, however, that they considered the task of the Working Party as an entirely independent one as it should address the specific problem of the termination of a specific derogation which was granted by the CONTRACTING PARTIES to the United States for particular purposes and that it now appeared as being regarded by the United States as a permanent derogation to GATT rules. Furthermore, the United States did take advantage from this derogation in order to establish practices which had the effect of providing it with additional advantages thus increasing the existing imbalance in rights and obligations under the General Agreement.

30. They urged the United States to take a flexible view on the termination of the waiver. A member of the Working Party stated that as a country strongly committed to GATT it was the responsibility of the United States to bring its agricultural import restrictions into conformity with the General Agreement. He therefore considered it incumbent upon the United States in the context of this Working Party discussion to provide a clear commitment of its intentions with respect to the waiver and to cooperate in a serious examination of the appropriate steps to remove the waiver. He further pointed out that in the absence of such a statement his authorities would be reconsidering their past position on this issue.

31. A member of the Working Party indicated that his authorities would continue to reserve his country's rights under the General Agreement with respect to the issue of a cheese quota allocation.

32. Some members of the Working Party further requested the secretariat to prepare a note on the conditions of application of the waiver since 1955. This note should also examine the question of the applicability of restrictive measures under the waiver to products other than those originally indicated in 1955 and, if so, under what conditions.

33. The representative of the United States took note of the statements made and said he would report in detail to his authorities the various arguments made during the meetings of the Working Party. He noted that his authorities had considered the question of Article XI but they did not find it to be a possible alternative. He reiterated his view that recent actions taken by the United States with regard to dairy products and sugar were not inconsistent with the General Agreement. He drew also attention to the fact that the sugar quota was not under the waiver but was taken under a separate authority, notably the headnote in the US Tariff Schedules which was the subject of a GATT concession.

34. He pointed out that the US actions under the waiver did not introduce additional advantages to his country that would unbalance the rights and obligations under the General Agreement. In this connection, he noted that his authorities on various occasions had expressed their concern with the current status of agricultural trade relations and had urged all other contracting parties to join in a common effort to solve this situation. Given the global nature of the agricultural trade problem, he reiterated that it would be unfair to pretend that the unilateral dismantling of the measures maintained by the US under Section 22 would solve the international trade problem in agriculture. The United States continued to try to liberalize its Section 22 actions where possible, but could not unilaterally renounce its defensive measures.

35. He further stated that the United States would actively participate in the work of the Committee on Trade in Agriculture and sincerely hoped that the work of that Committee would result in positive and parallel progress in the agricultural trade situation leading towards needed greater liberalization of agricultural trade and would enable the United States to take positive action towards the progressive reduction and elimination of remaining restrictive measures under the waiver.