

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

COUNCIL
11 July 1984

MINUTES OF MEETING

Held in the Centre William Rappard on 11 July 1984

Chairman: Mr. F. Jaramillo (Colombia)

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The Director-General informed the Council of the death on 8 July 1984 of Mr. Jean Royer, former Deputy Executive Secretary of GATT.

The Director-General recalled that Mr. Royer had joined the GATT Secretariat in 1948 as Deputy Executive Secretary, which post he held until his retirement on 31 December 1961. After that, he had maintained contact with GATT as a consultant until 1979, and had been particularly active in the GATT commercial policy training courses, the success of which was largely due to his untiring efforts over more than 20 years. Mr. Royer had been linked with the General Agreement in a senior position from its very first days, and the influence he had exercised on GATT's early development could hardly be overestimated.

Representatives then rose; and the Council paid tribute to the memory of Mr. Jean Royer by observing a brief period of silence.

1. Algeria - Request for observer status (L/5656 and Add.1)

The Chairman recalled that at its meeting on 14 June 1984, the Council had considered Algeria's request for observer status, as circulated in document L/5656, and had agreed to revert to this matter at its next meeting. He drew the Council's attention to a recent communication from Algeria, circulated as document L/5656/Add.1, and read out the text of that communication, which gave details on the trade policy perspective in which Algeria was studying the possibility of acceding to the General Agreement.

The Council agreed to grant Algeria observer status for Council meetings.

The representative of the United States said his delegation was pleased to join the consensus to grant Algeria observer status and welcomed that country's interest in eventual accession to the General Agreement. However, the United States was concerned that the Council had dealt with recent requests for observer status in a largely ad hoc manner, granting the requests with little consideration for the overall purpose and objectives of such status; consequently, his delegation appreciated the Secretariat's notes on Observer Status in GATT (C/129) and on De Facto Application of the General Agreement (C/130). The Note on observer status was a useful document which had shed much-needed light on a confusing and often neglected set of institutional arrangements; it had also confirmed the US perception that decisions on observer status in recent years had not been based upon any specific criteria. The United States therefore believed it would be useful for the Council to review the procedures and conditions for considering requests for observer status, particularly those from governments which were not contracting parties. The Council might want to consider, for example, whether governments seeking observer status should make more explicit statements regarding their intentions to accede to the General Agreement. It could also limit the duration of observer status to a set period, perhaps three years, and might consider periodically reviewing the observing country's trade policy and trade régime as a means of evaluating its intentions vis-à-vis the General Agreement and of spurring its progress toward full accession. The rôle of observers in GATT meetings also needed to be clarified. The United States urged that such an examination of observer status in the Council should be completed expeditiously, and therefore requested that informal consultations be held soon so as to reach an understanding on these questions by the Council meeting in October 1984.

The representative of the European Communities welcomed the Council's agreement to grant Algeria observer status. The Community also supported the statement by the representative of the United States, particularly his request for informal consultations so as to reach understanding on the question of observer status. He recalled that the

Community had proposed that the Council ask the Secretariat for a note on observer status. The multiplication of recent requests for such status had created some confusion and his delegation felt the need for an examination of the differences between specific cases as well as for an overview of this question. An understanding by the Council on clear criteria and conditions for observer status would facilitate future requests for such status and would help contracting parties to decide on them.

The representatives of Egypt and India welcomed the decision to grant Algeria observer status for Council meetings.

The representative of Israel supported the US request for informal consultations on the question of observer status.

The Chairman said he would proceed with the informal consultations and proposed that the Council revert to the matter of observer status at its next meeting.

The Council took note of the statements and so agreed.

2. Dates for the fortieth session of the CONTRACTING PARTIES (C/128)

The Chairman recalled that at their thirty-ninth session, the CONTRACTING PARTIES had agreed that the fortieth session should be held in the week beginning 26 November 1984, and that the Council should be authorized to fix the opening date and duration of the session in the course of 1984.

The Council agreed that the fortieth session should open on the afternoon of Monday 26 November and that the duration should be fixed at three to four days. This decision could be modified by the Council should circumstances so require.

3. Safeguards

- Statement by the Chairman of the Council

The Chairman noted that he had been holding informal consultations since the beginning of 1984 to explore how progress could be made under the mandate given by the CONTRACTING PARTIES in 1983, which was "to conclude the work of drawing-up a comprehensive understanding on safeguards as called for by Ministers within such a time-frame that it would be placed for adoption by the CONTRACTING PARTIES at their 1984 Session" (SR.39/1). The consultations had concentrated on each of the elements mentioned in the 1982 Ministerial Decision (BISD 29S/12), taken individually and in their interrelationships. They had also touched on some general questions, such as the application of paragraph 7(i) of the Ministerial Declaration (BISD 29S/11) to actions of a safeguard nature by governments. One element in the discussions had been what might be done about existing grey-area measures. He drew attention to some of the points discussed, remarking that this should not be taken as an indication that other points were necessarily less important.

The first point in the Ministerial Decision related to transparency; here the Council had a specific rôle to play through its special sessions which reviewed developments in the trading system. He noted that the catalogue of safeguard actions, taken with or without reference to existing GATT provisions, had been updated and circulated as Spec(82)18/Rev.3. On the question of coverage which could relate, inter alia, to product coverage and geographical coverage, differences of view, which had been apparent for a long time, remained. Concerning objective criteria for action, it had been mentioned that domestic criteria often had a strong influence on governments' decisions as to whether safeguard action should be taken or not. On temporary nature, degressivity and structural adjustment, it had been suggested that since by definition safeguard actions were intended to be temporary, a time limit and, where possible, degressivity, should be built-in factors in all safeguard actions. These factors had also been seen as relevant to the question of forcing inefficient industries to adjust, and some attention had been given to the issue of adjustment. Some suggestions had been made that a credible structural adjustment program should be taken into account when compensation was discussed. On notification, consultation, surveillance and dispute settlement, it had been suggested that a comprehensive safeguards agreement would have to comprise a mechanism for monitoring application of the safeguards provisions.

The Chairman said that despite the efforts made in these informal discussions, it had not yet been possible to substantially narrow down differences on the main issues. Recently there had been certain indications, however, that there existed on the part of a number of countries a will to put together proposals on a subject which had been under negotiation for so long and which had been looked at from all angles. It was on this basis that he had re-opened the informal discussions so that delegations could submit concrete proposals. He would not spare any effort to meet the objective and time-table set for this work because a breakthrough in this area would greatly improve the whole trading environment. The informal consultations would be intensified and work would be pursued in the autumn as a matter of urgency; but he emphasized that it was necessary for the work to be based on concrete proposals by delegations for a comprehensive understanding on safeguards, or at least on a set of guidelines on the main elements which would have to be covered in such an understanding.

The Council took note of the statement.

4. Trade in Textiles

- Proposal to derestrict the Secretariat Study on "Textiles and Clothing in the World Economy" (C/W/443, Spec(84)24 and Addenda)

The Chairman drew attention to document C/W/443, containing a recommendation by the Working Party on Textiles and Clothing to derestrict the Secretariat Study on "Textiles and Clothing in the World Economy", circulated in document Spec(84)24 and Addenda, it being

clearly noted that the Study was produced only under the Secretariat's responsibility, that delegations might not necessarily agree with any comments or observations contained in it, and that it might be corrected to take account of factual errors or omissions.

The Council agreed to derestrict the Study, i.e., the basic document as well as the addenda already issued and those to follow, on the basis of document C/W/443.

5. United States tax legislation (DISC)

- Follow-up on the report of the Panel

The representative of the United States, speaking under "Other Business", recalled that his delegation had pledged to the Council at its meeting on 1 October 1982 that the US Administration would seek new legislation to replace the Domestic International Sales Corporation (DISC) legislation so as to meet the concerns expressed by Council members; his delegation had noted that this would be a difficult step, given the sensitivity of US tax legislation. Since that meeting, his delegation had reported periodically to the Council on the Administration's progress toward reaching that goal. He was now pleased to inform the Council that on 27 June 1984, after a prolonged and difficult effort, Congress had passed the Foreign Sales Corporation Act (FSCA) as part of the Deficit Reduction Act of 1984. The United States believed that the FSCA, as an alternative to the DISC, conformed with the General Agreement and the rulings of the Council on this matter. His delegation would shortly provide the Secretariat with a copy of the FSCA for distribution to interested contracting parties, as soon as the Act had been signed into law by the President.

The representative of the European Communities said that his delegation appreciated the efforts by the US Administration to replace the DISC legislation. However, the Community had a number of problems with the new Act, for example its provision for writing off the deferred taxes that had accumulated under the DISC legislation since 1972. The Community, using US figures, had calculated that this tax write-off was equivalent to a cumulative subsidy of around ten to twelve billion US dollars. There were also a number of other provisions in the new Act which seemed to pose problems of compatibility with the General Agreement and, in particular, with the Council's understanding of November 1981 (L/5271) when the Council had adopted the Panel report (L/4422). His delegation reserved its GATT rights and would revert to this matter at a future Council meeting.

The representatives of Canada and Australia welcomed the information given by the representative of the United States and appreciated the US Administration's efforts to bring its tax legislation into conformity with its GATT obligations. However, they continued to have reservations over certain aspects of the new Act in terms of compatibility with GATT, and therefore reserved their rights to revert to this matter.

The representative of Jamaica noted that the representative of the European Communities had referred to the write-off of deferred taxes under DISC as a subsidy, and asked whether this matter would continue to be dealt with in the Council or in the Committee on Subsidies and Countervailing Measures.

The Director-General said that the first step would be for the United States to notify the new legislation to GATT once it had been signed by the President, after which the CONTRACTING PARTIES could decide on any appropriate follow-up.

The representative of Jamaica said that since this matter had been the subject of Council deliberation, he trusted it would continue to be dealt with in the Council and not in the Committee on Subsidies and Countervailing Measures.

The representative of Brazil said his delegation looked forward to receiving the text of the new US legislation so as to be able to take a position on this matter, which was of great interest to his country.

The Council took note of the statements.

6. Dispute settlement procedures

The representative of Canada, speaking under "Other Business", said that the integrity and credibility of GATT, as the basic framework governing the conduct of international trade, depended on the effective and efficient operation of its dispute settlement procedures. Canada recognized that the 1982 Ministerial Decision (BISD 29S/13) had not called for further work in this area; it had elaborated certain existing procedures. Canada believed, however, that contracting parties shared a general sense of concern over the operation of the system and felt that something could and should be done to improve it. His delegation did not intend to put forward any specific proposals at this time, but might return to this issue in greater detail at a Council meeting later in 1984. Canada invited contracting parties in the meantime to reflect on their own experience and their appreciation of how the dispute settlement system worked, with a view to considering how it might be improved.

The Council took note of the statement.

7. New Zealand - Imports of electrical transformers from Finland

The representative of Finland, speaking under "Other Business", said that after New Zealand had initiated anti-dumping proceedings against imports of Finnish electrical transformers, Finland had requested Article XXIII:1 consultations. The first consultation had been held in September 1983, and in February 1984 New Zealand had imposed an anti-dumping duty on the transformers. The consultations,

which were terminated in June 1984, had not led to a satisfactory solution. Finland's preliminary examination of the information received from New Zealand during the consultations had led it to believe that benefits accruing to Finland under the General Agreement had been impaired. Finland reserved its GATT rights and might revert to this matter at a future Council meeting.

The representative of New Zealand confirmed that the Article XXIII:1 consultations had been held. New Zealand rejected any suggestion that it had contravened its GATT obligations on this matter, and reserved its GATT rights.

The Council took note of the statements.

8. United States - Imports of sugar from Nicaragua
- Follow-up on the report of the Panel

The Chairman informed the Council that he had received a letter from Nicaragua's Minister of Foreign Trade concerning the follow-up on the Panel report (L/5607) adopted by the Council on 13 March 1984. In the letter, the Minister had asked him, in his capacity as Chairman of the Council, to urge the United States to notify the CONTRACTING PARTIES promptly of the measures which it intended to adopt in order to comply with the Panel's recommendation. The Minister had also stated that the United States should inform the Council whether its allocation of the global sugar quota for Nicaragua for fiscal year 1984-85 would be consistent with the criteria in Article XIII of the General Agreement. In the Minister's view, this information would be useful for the CONTRACTING PARTIES in their further deliberations and would facilitate adoption of appropriate decisions on this matter. The Chairman said he had discussed this matter with the delegations of Nicaragua and the United States, and hoped to be able to provide the Council with further information at a later date.

The Council took note of the statement.

9. Trade in Counterfeit Goods

The Chairman recalled that at its meeting on 7 February 1984, he had informed the Council that, following informal consultations, the Secretariat was in the process of putting together a background paper designed to facilitate the furtherance of work required by the 1982 Ministerial Decision on Trade in Counterfeit Goods (BISD 29S/19). The Council had agreed to revert to this item at a later stage when additional information was available. The Secretariat had now made available to interested delegations a draft of the background paper to give them an opportunity to comment or provide additional information. It was to be expected that, taking into account any comments and additional information, there would be further informal consultations with respect to the examination of the points covered by the Secretariat paper, and the Council would revert to this matter in the autumn.

The representative of the United States welcomed the Chairman's intention to hold informal consultations among interested delegations. The problems created by trade in counterfeit goods were growing increasingly serious. It was therefore important for GATT to examine these problems with a view to possible solutions, and to carry out the provisions of the GATT work program in this regard. He urged delegations to carefully consider the information in the Secretariat paper.

The representative of the European Communities said that this issue deserved full attention, as did the other items in the work program resulting from the 1982 Ministerial Declaration. The Community looked forward to participating in the consultations in the hope that they would lead to a solution which fulfilled the objectives of the work program.

The Council took note of the statements.

10. Deputy Director-General Post

The Chairman informed the Council of the Director-General's decision to extend Mr. M.G. Mathur's term of appointment for a further period of three years, i.e. until 31 December 1987.

The Council took note of this information.