

# GENERAL AGREEMENT ON

RESTRICTED

LIC/M/19

8 October 1987

# TARIFFS AND TRADE

Special Distribution

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Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 29 SEPTEMBER 1987

Chairman: Mr. A.-H. Mamdouh

1. The Committee on Import Licensing held its nineteenth meeting on 29 September 1987. The only item on the agenda was consideration of the request of the delegation of the United States that a panel be established pursuant to Article 4:2 of the Agreement on Import Licensing Procedures to examine the consistency with the Agreement of India's import licensing procedures as applied to almond imports (LIC/W/37).

2. At the invitation of the Chairman, the representative of the United States said that the United States was requesting the establishment of a panel in the belief that the benefits accruing to the United States under the Agreement were being nullified or impaired by India's import licensing régime as applied to almond imports. The request for a panel should not be construed as challenging India's right to maintain a licensing régime, but in the view of the United States the restrictions on almond imports applied by the Government of India, made effective through import licences, were inconsistent with the principles and procedures of Articles 1 and 3 of the Agreement. The United States was not proposing to amplify its concerns with respect to these issues before the Committee at this juncture, but would expect to do so before a panel made up of members of the Committee.

3. The representative of the United States noted that this request for the establishment of a panel was the first to have been made under the Agreement, and that this raised questions about the necessary procedures that should be followed in the Committee. Article 4:2 of the Agreement states that the settlement of disputes with respect to any matter affecting the operation of the Agreement should be subject to the procedures of Articles XXII and XXIII of the General Agreement. The United States and India had held consultations under the procedures of Article XXIII:1 on 19 June 1987, but these did not lead to a satisfactory resolution of the matter; a difference of view remained with respect to the consistency of India's practices with the Agreement.

4. In addition, the United States had raised this matter in the Committee for a number of years, and it had also been discussed bilaterally.

5. In the view of the United States, it was therefore necessary to request the establishment of a panel.

6. The representative of India underscored the fact that the Agreement on Import Licensing Procedures was concerned with procedures only, and not with matters of policy, e.g. a decision to restrict imports of any product to a certain quantity. India submitted that its import licensing procedures were fully in conformity with Articles 1 and 3 of the Agreement, and in particular with the requirements that the procedures were neutral in application and were administered in a fair and equitable manner, and that they should not have trade-restrictive effects additional to those caused by the imposition of the restrictions. Licences for almond imports were fully utilized, and they did not stipulate the country from which the imports had to be made; indeed, the licences in question were issued for imports of dried fruits in general and did not even stipulate which specific products were to be chosen.

7. The representative of India went on to address three specific points raised by the United States in LIC/W/37. The first was that about half of the licence holders in India were restricted to an import limit of Rs 5,000 and that this limit was too small to permit commercially viable shipments, a reference to the requirements of Article 3(j) of the Agreement. He stated that the Rs 5,000 figure referred to was a minimum, not a maximum, and that it had been fixed expressly to ensure that licences did allow commercially viable quantities to be shipped. Furthermore, paragraph 118 of the Handbook of Import-Export Procedures for 1985-88 authorizes a licence-holder to appoint an import agent so that the bulking of shipments to India was a possibility.

8. The second point was that licence transfer practices in the market exacerbated the trade-restrictive effects of the licensing régime. The representative of India noted that such transfer practices were illegal, and that even were they to take place clandestinely they did not constitute an additional trade restriction since the local price of almonds reflected supply and demand conditions for which it made little difference whether the licence was illegally transferred or not before the imports were made.

9. The third point raised by the United States was, in reference to Article 3(1) of the Agreement, that the licensing régime gave no opportunity to new importers to enter the market since licences were issued on the basis of past import performance. Given the policy decision that had been taken to limit the quantity of dried fruit imports to 25 per cent of the level prevailing before April 1981, the number of licensees could be increased only by reducing further the amount of imports permitted under each individual licence. The number of licensees on the register was already quite high at about 8,000, covering all persons engaged in the trade when OGL conditions prevailed before April 1981, and it had been found administratively inexpedient to lengthen the list.

10. With respect to the statement of the United States that it had raised the issue of India's licensing régime for imports of almonds at a number of meetings of the Committee, the representative of India said that the records of the meetings showed that India had complied with requests for information from the United States.

11. The representative of India concluded by stating that India's licensing procedures were fully consistent with the principles and procedures set out in the Agreement on Import Licensing Procedures.

12. The representatives of Australia, Canada and the European Communities supported the United States' request for the establishment of a panel. The representative of Yugoslavia considered that the appropriate body to examine the matters raised by the United States was the Committee on Balance of Payments Restrictions. The representative of India noted that no position had been taken by other delegations on the substance of the dispute at this meeting. He reiterated that India's licensing procedures were fully consistent with the provisions of the Agreement. However, his delegation would not oppose the establishment of a panel.

13. The Committee agreed that a panel would be established, with terms of reference and membership to be worked out by the Chairman of the Committee in consultation with the delegations concerned.