

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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COUNCIL
17 December 1993

MINUTES OF MEETING

Held in the Centre William Rappard on 17 December 1993

Corrigendum

Page 1

Item 8 should read as follows:

- "Customs unions and free-trade areas; regional agreements
- (a) EFTA-Turkey Free-Trade Agreement
 - Report of the Working Party
 - (b) Free-Trade Agreements between Norway and Estonia, Latvia and Lithuania
 - Report of the Working Party
 - (c) Free-Trade Agreements between Sweden and Estonia, Latvia and Lithuania
 - Report of the Working Party
 - (d) Temporary arrangements on trade and economic cooperation between Finland and Estonia, Latvia and Lithuania
 - Report of the Working Party"

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Item 9 should be deleted, and the remaining Items renumbered accordingly.

Pages 12 and 13

Item 8 should read as follows, and Item 9 should be deleted:

- "Customs unions and free trade areas; regional agreements
- (a) EFTA-Turkey Free-Trade Agreement
 - Report of the Working Party (L/7336)
 - (b) Free-Trade Agreements between Norway and Estonia, Latvia and Lithuania
 - Report of the Working Party (L/7337)
 - (c) Free-Trade Agreements between Sweden and Estonia, Latvia and Lithuania
 - Report of the Working Party (L/7338)
 - (d) Temporary arrangements on trade and economic cooperation between Finland and Estonia, Latvia and Lithuania
 - Report of the Working Party (L/7339)

*English only/Anglais seulement/Inglés solamente

- (a) EFTA-Turkey Free-Trade Agreement
— Report of the Working Party (L/7336)

The Chairman recalled that in April 1992, the Council had established a working party to examine this matter. The report of the Working Party was now before the Council in document L/7336.

Mr. Kesavapany (Singapore), Chairman of the Working Party, introducing the report, said that the Working Party had held four meetings between April and November 1993 in its examination of this Agreement — the first of its kind recently concluded by the EFTA countries with a third country. In the examination of the Agreement's coverage of the agricultural sector, the Working Party had noted the views of various members regarding the application of the "substantially all the trade" criterion in Article XXIV:8(b). Several members had expressed concern that trade in unprocessed agricultural products had been dealt with by separate bilateral arrangements between the individual EFTA countries and Turkey. These members had further noted that the bilateral arrangements did not appear to be leading to free trade in unprocessed agricultural products within a reasonable time-frame, and had expressed doubts, therefore, as to the consistency of the Agreement with the definition of a free-trade area in Article XXIV:8(b), and as to whether it covered "substantially all the trade" between the Parties. The Parties to the Agreement had drawn attention to the fact that separate bilateral arrangements had been concluded due to different policies and trade regimes in agriculture among the EFTA countries. In their view, such arrangements had been concluded under the framework of the Free-Trade Agreement between the Parties and covered a number of products of major importance to the Parties concerned. At the time of entry into force, the Agreement and the bilateral agreements covered well over 90 per cent of total trade between the Parties. The Parties to the Agreement, and a number of other parties, had been of the view that the requirements under Article XXIV had been fulfilled. On the other hand, Australia, Canada and the United States had concluded that there were questions about the full consistency of the Agreement with respect to the relevant provisions of the General Agreement, including Article XXIV, and had reserved their GATT rights. The Parties to the Agreement had been invited, in accordance with the 1971 Decision of the CONTRACTING PARTIES (BISD 18S/38), to furnish biennial reports on the operation of the Agreement, the first such report to be submitted in 1995.

The representative of Austria, speaking on behalf of the EFTA countries and Turkey, said that this Agreement was the first of a new generation of such agreements between the EFTA countries and third countries, and expressed gratitude to the Working Party Chairman for the manner in which the examination of the Agreement had been conducted.

The Council took note of the statements and adopted the report in L/7336.

- (b) Free-Trade Agreements between Norway and Estonia, Latvia and Lithuania
— Report of the Working Party (L/7337)
- (c) Free-Trade Agreements between Sweden and Estonia, Latvia and Lithuania
— Report of the Working Party (L/7338)
- (d) Temporary Arrangements on Trade and Economic Cooperation between Finland and Estonia, Latvia and Lithuania
— Report of the Working Party (L/7339)

The Chairman recalled that the Council had established working parties to examine the Free-Trade Agreements concluded by Norway and Sweden with the Baltic States in November and July 1993, respectively. In December 1992, the CONTRACTING PARTIES had established a working party to examine the Free Trade Agreement between Finland with the Baltic States. The reports of the

three Working Parties were now before the Council in documents L/7337, L/7338 and L/7339, respectively.

Mr. Seade (Mexico), Chairman of the Working Parties, introducing the three reports, said that the Working Parties had met between June and November 1993. In the proceedings, there had been wide sympathy for the rationale of the respective Agreements, which had been seen as appropriate responses by the three Nordic countries to the economic, social and political situations in the Baltic countries, in the light of the geographical proximity of the countries involved and the need to strengthen the traditional trade and economic links among them. The Working Parties had also noted that the Agreements would consolidate the favourable conditions of market access already provided by the three Nordic countries to the Baltic countries, and would thus encourage the economic liberalization under way in the latter countries and facilitate their transition towards market economies. The Working Parties had recognized that the Agreements would provide a framework of rules for the conduct of trade between each of the three Nordic countries and the Baltic countries involved, thereby supporting the underlying objective of the Agreements to contribute to the process of integrating the latter countries into the European and world economies. The Working Parties had noted the confirmation by the delegations of Sweden, Norway and Finland that the tariff preferences granted in the respective Agreements would not limit the ability of the Baltic countries to conduct tariff negotiations in the context of their protocols of accession to the General Agreement. The Working Parties had welcomed that, with respect to the products covered by the Free-Trade Agreements, all duties and charges of equivalent effect, as well as all quantitative restrictions on imports and measures of equivalent effect had been eliminated with the entry into force of the Agreements. A few export restrictions would continue to be applied in the context of the Agreements between Sweden and Estonia, Norway and Latvia, and Finland and Latvia. The Working Parties had noted that the agricultural sector was covered in separate arrangements between Sweden and the Baltic countries and Norway and the Baltic countries. Finland had also concluded a bilateral arrangement with Estonia in this sector, and its negotiations of similar types of arrangements with Latvia and Lithuania were still under way.

Several members of each of the three Working Parties had expressed concern that the agricultural sector had been excluded from the Agreements. This, in their view, meant that the requirement in Article XXIV:8(b), that duties and other restrictive regulations of commerce be eliminated on "substantially all the trade", had not been fulfilled. These members had therefore concluded that there were questions about the consistency of these Agreements with Article XXIV. In this regard, the representatives of Australia, Canada and the United States had reserved their countries' rights under the General Agreement in the context of each of the three Working Parties. On the other hand, other members of the Working Parties had noted that the compatibility with Article XXIV:8(b) should be assessed in the light of the Agreements in their entirety and not only in the context of one or more parts of them. The percentage of trade on which obstacles had been eliminated by the Agreements should therefore, in their view, be considered as determining whether the provisions of Article XXIV:8(b) had been respected. These members had considered that, in the light of the trade data presented, the requirements in Article XXIV:8(b) had been met fully. The three Working Parties had agreed that the three sets of Free-Trade Agreements with the Baltic States were generally in conformity with the relevant provisions of the General Agreement, in so far as they did not raise barriers to the trade of third parties and eliminated obstacles to trade between the Parties to the Agreements. However, some members had considered that the selective treatment of agricultural trade under Sweden's Agreements and the selective and non-reciprocal treatment of the same sector in Norway's Agreements had prevented the full GATT conformity of these Agreements. The latter conclusion by some members, on the selective treatment of agricultural trade, would also apply to Finland's agricultural arrangements which, as he had indicated earlier, were still under negotiation. Sweden, Norway and Finland had been invited,

in accordance with the 1971 Decision of the CONTRACTING PARTIES (BISD 18S/38), to furnish biennial reports on the operation of the Agreements, the first such report to be submitted in 1995.

The representative of the United States said that although the United States would not block the conclusion of the Article XXIV review process based solely on its objections, it was not satisfied with the outcomes of the working parties on the Free-Trade Agreements under consideration. The United States had reserved its rights regarding the Article XXIV consistency of these Agreements, and urged the parties concerned to correct the deficiencies in this regard that had been noted by the United States during the working parties' deliberations. The United States believed the Agreements under consideration to be inconsistent with Article XXIV because they did not, in the main, cover "substantially all the trade" as called for in that Article. The virtual exclusion of whole sectors from free trade could not be justified by observing that there was little current trade in them to be counted.

The United States also believed that the principal purpose of these reviews had been undermined by the disappointing refusal of the parties to the Agreements in some cases to provide requested relevant information. In the course of the past year, for example, there had been a number of occasions in which certain contracting parties had refused to provide information regarding the percentage of their trade under preferential trading arrangements. When pressed to answer such questions by several delegations, including the United States, some of the parties concerned had refused to answer on the grounds that the issue did not come within the scope of the relevant working party. Such working parties, however, were based on the premise of transparency, and were designed to illuminate, not obfuscate the process. In the course of the Article XXIV review process that the United States itself had been through, it had never refused to answer questions on the degree to which its own trade might be conducted under preferential arrangements, and believed it had the right to expect the same courtesy from others.

The representative of Finland, speaking also on behalf of Norway and Sweden, said that the results of the Working Parties on the three Free-Trade Agreements under consideration had been made possible by the efforts of their Chairman and the cooperation of all participants. With regard to the United States' statement, he said that the Parties to the Agreements between the Baltic States and Finland, Norway and Sweden had, for their part, tried to provide all the information that had been requested of them, and would make every effort in the course of the review of the functioning of these Agreements to provide any further information the United States wished.

The representative of New Zealand said that the provision of full information was important to allow effective reviews under Article XXIV, and was a consideration which clearly went beyond just the circumstances of the reviews of the Agreements before the Council at its present meeting.

The Council took note of the statements and adopted the reports of the three Working Parties in L/7337, L/7338 and L/7339, respectively."