

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.SB/SN/1
17 June 1987

Special Distribution

Surveillance Body

Original: English/
French

STANDSTILL

Notifications

The following reverse notifications are circulated in accordance with paragraph 2 of the agreed procedures for the surveillance mechanism established by the Trade Negotiations Committee (MTN.TNC/2). They were received by the secretariat on 3 June 1987.

Notifications by the European Economic Community

In accordance with the agreed procedures, the European Economic Community wishes, at this stage, to draw the Surveillance Body's attention to a number of measures taken by other participants which, in the opinion of the Community, are not consistent with, or are liable to contravene, the Punta del Este standstill commitment.

Participant notifying: European Economic Community

Participant maintaining the measure: United States

Description of measure: Customs user fee

Under the Omnibus Budget Reconciliation Act of 1985, as amended by the Tax Reform Act of 1986 and the Omnibus Budget Reconciliation Act of 1986, the United States authorities have been charging a fee for customs operations on imports since 1 December 1986 (document L/6113).

The European Economic Community considers that this fee is not consistent with the obligations of the United States under Articles II and VIII of the General Agreement.

In view of the fact that, in accordance with dispute settlement procedures, the Council has established a Panel to examine the complaint of the Community and that of another contracting party against the measure in question, the Community is not pressing for examination of the measure by the Surveillance Body at the present stage. It reserves the right, however, to revert to it, if necessary.

Comments by the participant maintaining the measure:

Participant notifying: European Economic Community

Participant maintaining the measure: United States

Description of measure: Tax on imported petroleum and petroleum products

Under the Superfund Amendments and Reauthorization Act of 1986, the United States has, since 1 January 1987, applied a tax of 8.2 cents per barrel on crude petroleum produced in the United States and of 11.7 cents per barrel on imported crude petroleum and petroleum products.

In the opinion of the European Economic Community, the discrimination as regards the level of this tax to the detriment of products imported into the United States constitutes a violation of the provisions of the General Agreement and, specifically, of its Article III.

Furthermore, the Act provides for charging a tax, as from 1 January 1989, on imported chemical by-products in an amount equivalent to that applied to raw materials of United States origin (2 per cent) or, if the importer fails to provide adequate information, of a tax equivalent to 5 per cent of the estimated value. The Community considers that the charging of such a tax would be contrary to the provisions of Articles II and III of the General Agreement.

This question is currently being examined by a Panel¹ established in February by the Council under the provisions of Article XXIII:2 at the request of the Community and of other contracting parties and, in the circumstances, the Community for its part is not pressing for examination of this case by the Surveillance Body at the present stage. It reserves the right to revert to it, if necessary.

Comments by the participant maintaining the measure:

¹Note by the secretariat: The Panel's report was circulated on 5 June 1987 in document L/6175.

Participant notifying: European Economic Community

Participant maintaining the measure: United States

Description of measure: Department of Defense Appropriations Act in respect of machine-tools

Under this Act, adopted in October 1986, the United States Defense Department must procure machine-tools manufactured only in the United States and Canada.

The Community considers that this legislation is not consistent with the provisions of the Government Procurement Code and the General Agreement.

It emerges from the Government Procurement Code, and in particular from its Annex I, that FSC 34 category machine-tools are among the products generally covered by the Code, subject to the rules applicable in the matter of national security. The Community therefore concludes that exceptions must be decided on a case-by-case basis. The exception here referred to transfers the category of FSC 34 machine-tools from the list of products to which the Code generally applies to the list of non-covered products, and this constitutes a major modification of Annex I to the Code.

What is more, the preferential treatment being accorded Canadian machine-tools is contrary to the provisions of Article XIII:1 of the General Agreement and Article II:1(b) of the Government Procurement Code. In accordance with Article VII:3 of the Code, the Community has entered into consultations with the United States on this legislation.

Comments by the participant maintaining the measure:

Participant notifying: European Economic Community

Participant maintaining the measure: Indonesia

Description of measure: Prohibition of exports of tropical woods

In October 1986, the Government of Indonesia decided to prohibit exports of unprocessed rattan as from 15 November 1986 and of semi-processed rattan - currently subject to a 30 per cent tax - as from 1 January 1989. In addition, since 15 November 1986 Indonesia has prohibited exports of ramin sawn in small slices or lengthwise as boards, as well as exports of this wood in any form as from 1 January 1988.

Generally speaking, in the opinion of the Community these measures prohibiting exports are liable to contravene Indonesia's obligations under the General Agreement and in particular under Article XI.

In any case, the Community considers that these measures are hardly justifiable under paragraph (ii) of the standstill commitment.

Comments by the participant maintaining the measure:

Participant notifying: European Economic Community

Participant maintaining the measure: Brazil

Description of measure: Expansion of the list of products for which the issue of import licences is temporarily suspended

Pursuant to the provisions of paragraph 3 of the Declaration on Trade Measures Taken for Balance-of-Payments Purposes, on 2 February 1987 Brazil notified modifications made in the list of products for which the issue of import licences is temporarily suspended.

This new list of products whose import is temporarily prohibited almost doubles the number of products included in the previously applicable list and covers a considerable range of products.

The Committee on Balance-of-Payments Restrictions will be holding intensive consultations with Brazil. The Community reserves the right, in the light of that examination, to revert to these measures.

Comments by the participant maintaining the measure:

Pursuant to the provisions of the GATT, Brazil notified, on 2 February 1987, modifications introduced in the list of products for which the issuance of import licences is temporarily suspended, for balance-of-payments purposes. The Brazilian communication on that was circulated as document L/6126. During informal consultations held by the Chairman of the Committee on Balance of Payments, one delegation suggested that the consultations with Brazil in the Committee, which will be held in the second semester, should be full and not simplified. The Brazilian delegation did not oppose this idea.

The Punta del Este Ministerial Declaration contains, in its section C(i), the commitment of each participant "not to take any trade restrictive or distorting measure inconsistent with the provisions of the General Agreement or the Instruments negotiated within the framework of GATT or under its auspices". The measures presented in document L/6126 are not only consistent with, but also based on the General Agreement. Moreover, they did not go beyond that which is necessary to remedy the balance-of-payments difficulties which Brazil has been facing. In this context, they are absolutely consistent with section C(ii) of the Ministerial Declaration. The temporary nature of these measures should also be stressed.

As with other measures taken by other contracting parties under Article XVIII:B, the Brazilian ones are not to be considered in the context of the Uruguay Round, but in the adequate forum, the Committee on Balance-of-Payments. In document C/W/517 and Add.1 and Corr.1, issued for the next Special Session of the Council, the Brazilian measures were included under the heading "Import measures notified as being applied for balance-of-payments purposes".