

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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GROUP OF GOVERNMENTAL EXPERTS ON MEASURES AFFECTING THE WORLD MARKET FOR COPPER ORES AND CONCENTRATES

Submission by the EEC

The Community considers that it has submitted enough evidence to demonstrate the existence of questionable practices in several countries but particularly in Japan.

The established facts are:

1. The internal price for copper metal in Japan is now 22 per cent above the world price level.
2. The explanation of this difference given by the Japanese delegation is that the difference would be due to payment facilities, inland transport costs and discounts, cannot justify such an enormous gap.
3. The specific MFN duty applied to refined copper which was equivalent to an ad valorem rate of 5.3 per cent in 1981 is now at a level of approximately 8 per cent. The Community's requests for a lowering of the duty have consistently been rejected.
4. The Japanese copper producers buy their copper concentrates on the average with a treatment and refining margin of 14 US cents per pound. When the Community asked whether a single copper expert present in this Group knew of any smelter that could turn copper concentrates into metal at a cost of 14 US cents per pound nobody took the floor, including the Japanese delegation. The Commission considers therefore that everybody here agrees that this is impossible.
5. The numerous press articles circulated to the Group clearly show what the interventions of the Japanese authorities actually are:

- (a) The nominal GSP ceiling is of 6,209 tons per fiscal year.
- (b) However, an import quota under the GSP of the order of 47,000 tons per fiscal year is granted by the Japanese Ministry of Finance and divided among copper manufactures by directives issued by the M.I.T.I.
- (c) Each fiscal year, around the 4 April, this tonnage is reached and the Ministry of Finance suspends its duty-free licences.
- (d) Since this procedure is entirely controlled by the Japanese Ministries, why would the Japanese specialized press attach such an importance to the administrative guidance for voluntary restrictions for "copper imports under a tariff system by semi-fabricators" and to the attempts by M.I.T.I. to include end-users under its guidance? The Community thinks that the imports under this tariff system are largely reserved for the copper producers themselves.
- (e) This system, reflected by abnormally high internal prices for copper metal and by abnormally low refining costs, can only work due to both the active participation of M.I.T.I. in the implementation of concealed import restrictions and the passive attitude adopted by the Japan Free Trade Commission with regard to the price cartel operated by the Japanese Copper Producers.

6. The Community therefore considers that:

- (a) such concealed import restrictions violate Article XI, paragraph 1 of the General Agreement;
- (b) they are not covered by the exceptions foreseen in paragraph 2 of the same Article;
- (c) they cannot be motivated by balance-of-payments problems, Japan having ceased since 1963 to invoke the provisions of Article XII;
- (d) according to Article X, paragraph 1, "laws, regulations, judicial decisions and administrative rulings pertaining to restrictions or prohibitions on imports shall be published promptly in such a manner as to enable governments and traders to become acquainted with them";

- (e) again, Article XIII, paragraph 3(b) foresees that "in the case of import restrictions involving the fixing of quotas, the contracting party applying the restrictions shall give public notice of the total quantity of value of the product or products which will be permitted to be imported during a specified future period and of any change in such quantity or value";
- (f) a similar provision appears in Article 3(c) of the "Licences" Code;
- (g) according to Article X, paragraph 3, "Laws and regulations pertaining to requirements, restrictions or prohibitions on imports must be implemented in an equitable manner".

7. Accordingly, the Community considers that the report of the Group of Governmental Experts on Measures Affecting the World Market for Copper Ores and Concentrates should draw the Council's attention to these infringements in order to come to the necessary conclusions.