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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
17 June 1986

MINUTES OF MEETING

Held in the Centre William Rappard
on 17 June 1986

Chairman: Mr. K. Park (Korea)

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1. International Trade Centre
- Report of the Joint Advisory Group (ITC/AG(XIX)104)

Mrs. Sjahruddin (Indonesia), rapporteur at the meeting of the Joint Advisory Group, introduced the report (ITC/AG(XIX)104) on behalf of Mr. Isaksen (Denmark), Chairman of the Group. She said that the Group had supported the ITC's 1985 objectives, and had encouraged the Executive Director's efforts to obtain expanded extra-budgetary resources at a time when increased export earnings were essential for heavily indebted developing countries. The Group had welcomed the ITC's progress in its emphasis on result-orientated programs and had underlined the benefits that would accrue to developing countries. The Group had given special attention to a number of program areas, including institutional infrastructure for trade promotion at the national level, export market development, specialized national trade promotion services, small and medium-sized enterprises, national trade representation services, manpower development, import operations and techniques, and technical co-operation with less-developed countries. Regarding evaluation, the Group had emphasized the importance of projects producing measurable results, and had favoured the introduction of a self-evaluation system to improve project performance. The Group had endorsed the schedule of program evaluation as well as the report's findings regarding export financial services, and had agreed that the ITC's rôle should be expanded in the latter area. The Group had also endorsed the proposed revision of the ITC section in the UN Medium-Term Plan 1984-1989, and had agreed to shorten the Group's meetings to five working days so as to cut costs. In order to strengthen the technical nature of the discussions, the Group's 1987 meeting would be preceded, on a trial basis, by a small meeting of specialists to discuss the program evaluation report. In conclusion, she referred to the encouraging statements regarding trust fund contributions to the Centre, and noted that a number of new donor countries had joined the list of voluntary contributors for 1986, namely Bangladesh, Czechoslovakia, Greece, Indonesia and Spain.

The representatives of Uruguay, Chile, Indonesia, Finland on behalf of the Nordic countries, and Hungary commended and expressed their support for the Centre's valuable work, and stressed the need to increase financial support for it.

The representative of Uruguay stressed the importance of the Centre's work in the expansion of developing countries' exports, especially given the current difficulties in international trade. Uruguay hoped that the current financial crisis in the United Nations would not affect the Centre's work. It was gratifying to note that there were new donors to the Centre's activities.

The representative of Chile shared Uruguay's concern over the financial resources available to the Centre. His country had benefitted from the Centre's activities, and hoped that in 1986 or 1987, copper and copper products would be included in the Centre's export promotion program.

The representative of Indonesia said that his country recognized the increasing importance of the ITC's rôle in helping developing countries expand their foreign trade through financial and technical assistance. Indonesia, as a developing country, looked forward to the ITC's continuing assistance in areas such as technical cooperation, trade promotion and export market development. His country shared the Group's concern that resource constraints had limited the Centre's technical cooperation efforts in commodities, and urged that a solution to this problem be found as quickly as possible.

The representative of Finland, on behalf of the Nordic countries, said that the ITC, as the focal point for technical cooperation with developing countries in trade promotion, had an increasingly important task, among others, in helping those countries to increase export earnings. The Centre had special merit as an organization in which developing countries could and should actively participate in the planning and execution of programs. In the Nordic countries' view, the Centre should work as an agent for development through trade, and should be given opportunities to expand its efforts in commodities, export development, import procurement, manpower development, training and trade promotion. It was therefore imperative that more financial resources be made available. The Nordic countries renewed their appeal to other countries to contribute or to increase their contributions to the Centre's activities.

The Council took note of the statements and adopted the report.

2. Uruguay - Import Surcharges
- Request for extension of waiver (C/W/497, L/6000)

The Chairman recalled that by their Decision of 24 October 1972 (BISD 19S/9), the CONTRACTING PARTIES had waived the application of the provisions of Article II to the extent necessary to allow the Government of Uruguay to maintain certain import surcharges in excess of bound duties. The waiver, which had been extended a number of times, was due to expire on 30 June 1986. He drew attention to Uruguay's request (L/6000) for a further extension of the waiver, and to the draft decision in C/W/497.

The representative of Uruguay said that his country had for some time been engaged in a complex process of simplifying, reducing and harmonizing its import tariff through the application of a single tax based on customs value, as notified in L/6000. Uruguay had been trying

to solve the principal problems responsible for slowing down this process, but due to problems of nomenclature and tariff transposition, it had not been possible to complete adjustments to the new tariff structure reflecting the concessions in Schedule XXXI. Consequently, Uruguay requested an extension of the authorization granted by the CONTRACTING PARTIES for the application of surcharges until 30 June 1987, at which time it was hoped the work would have been completed.

The Council took note of the statement, approved the text of the draft decision extending the waiver until 30 June 1987 and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

3. Tariff Measures - Harmonized System
- Korea - Invocation of Article XXVIII:4 (L/5999)

The Chairman drew attention to a request by the Government of Korea (L/5999) for authority under the provisions of Article XXVIII:4 to renegotiate a number of concessions included in its Schedule LX.

The representative of Korea said his Government wanted to conduct renegotiations on a number of concessions in its Schedule LX, in the course of the forthcoming Article XXVIII negotiations regarding introduction of the Harmonized Commodity Description and Coding System. His Government had not, prior to 31 December 1984, formally reserved its right under Article XXVIII:5 to modify its tariff schedule. With a view to participating actively in the Harmonized System exercise, Korea had to invoke Article XXVIII:4 in order to undertake the necessary renegotiations. Korea sought the Council's authorization for such renegotiations for an extended period of one year in view of their complexity. His Government would submit the necessary documentation for those renegotiations in the very near future. He reiterated Korea's willingness and determination to do its utmost to implement the Harmonized System, along with other trading partners, as early as possible. Korea would make every effort to conduct the renegotiations expeditiously and hoped to complete them, if possible, by the end of 1986.

The representative of the European Communities welcomed Korea's initiative to implement the Harmonized System. Korea was not the only country which had not reserved its right under Article XXVIII:5 prior to 31 December 1984 and which might want to participate in renegotiations under this Article; there were about 20 other contracting parties in the same situation. In the Community's view, extension of the period allowed for such renegotiations to one year was reasonable. The Community had no difficulty with Korea's request, but suggested that while it could be granted at the present meeting, the problem in general could be examined in the Committee on Tariff Concessions. The Council could then take a decision at a future meeting to cover collectively the contracting parties in the same situation as Korea.

The representative of Sweden, on behalf of the Nordic countries, supported Korea's request and expressed the hope that all countries would implement the System expeditiously. However, he asked for an explanation of the period of time requested by Korea. He shared the Community's question as to whether a number of other contracting parties might seek the same kind of authorization as Korea. The Secretariat might look into this, and the possible advantage of a similar authorization to be extended to all countries indicating a need in this respect should be considered. The time period suitable for such renegotiations could be discussed in the Committee on Tariff Concessions.

The representative of Argentina said that his delegation did not object to Korea's request. Regarding the Community's suggestion, it might be useful to have the Committee on Tariff Concessions examine the problem.

The representative of Japan supported Korea's request and shared Korea's hope that the renegotiations would be completed before the end of 1986. Regarding the Community's suggestion to discuss this matter in the Committee on Tariff Concessions, his delegation was not certain this was possible from a legal point of view, but was ready to study that possibility.

The representative of Korea explained that his Government had asked for a one-year period for the renegotiations in order to obviate repeated requests for more time. He reiterated that Korea would do its best to shorten the time required for those renegotiations and hoped to conclude them by the end of 1986.

The Council took note of the statements and agreed to grant the authority sought by Korea.

The Chairman proposed that the Council invite any contracting party, once the delegation of Korea had submitted its documentation mentioned in L/5999 relating to the items on which it intended to conduct renegotiations, to communicate any claims in writing and without delay to the Government of Korea and at the same time inform the Director-General, if it considered that it had a principal supplying interest or a substantial interest, as provided for in Article XXVIII:1. Any such claim recognized by the Government of Korea would be deemed to be a determination within the terms of Article XXVIII:1.

The Council so agreed.

The representative of the European Communities repeated the suggestion that the Committee on Tariff Concessions study this matter so that the Council could take a decision on an overall general formulation

to take account of all similar cases which might arise in a given period. Contracting parties should not be asked to present each case individually.

The Council took note of the statement.

4. Switzerland - Review under paragraph 4 of the Protocol of Accession - Working Party report (L/6003)

The Chairman recalled that in October 1984, the Council had established a Working Party to conduct the sixth triennial review of the application of the provisions of paragraph 4 of the Protocol of Accession of Switzerland, and to report to the Council. The Working Party's report was contained in L/6003.

Mr. Major (Hungary), Chairman of the Working Party, introduced the report. The Working Party had reviewed the application of the provisions of paragraph 4 of the Protocol for the Accession of Switzerland in the light of the reports submitted by the Swiss Government for the years 1981, 1982 and 1983 (L/5423, L/5596, and L/5673 and Add.1, respectively). Discussion had covered the general question of liberalization in agricultural trade and the need for the CONTRACTING PARTIES to keep under constant review cases involving derogations from GATT rules, as well as specific questions relating to Switzerland's application of the measures maintained under paragraph 4 of its Protocol. Members of the Working Party had expressed divergent views (notably in paragraphs 23 and 24) on whether Switzerland had met the transparency requirement of the Protocol. The representative of Switzerland had indicated his authorities' readiness to provide in future reports under paragraph 4, all the necessary information relevant to the operation of the Protocol.

The representative of New Zealand said that of prime concern to his delegation had been the need for full information on the application, administration, allocation and volume of quotas so that it could be determined whether restrictions under the Protocol had been applied in a manner that ensured minimum harm to contracting parties' interests and was consistent with the terms of Article XIII. Precise questions and replies could be found, for example, in paragraph 16 of L/6003. In his delegation's view, it had not been possible to conduct a thorough review of the Protocol as laid out in paragraph 4 thereof (paragraph 23). New Zealand maintained that view, but interpreted paragraph 25 in a positive light and expected that the information provided by Switzerland on the next occasion would ensure that a thorough review of the terms of the Protocol would be possible.

The representative of Australia agreed with the summary made by the Chairman of the Working Party and agreed to the adoption of the report in L/6003.

The representative of Switzerland said that his delegation had taken note of all the comments made in the Working Party and in the Council on this matter and understood some of the concerns expressed. Switzerland believed that the triannual review required under the terms of the Protocol was one element of the surveillance machinery.

The Council took note of the statements and adopted the report.

5. United States - Agricultural Adjustment Act
- Working Party terms of reference and chairmanship

The Chairman recalled that at its meeting on 22 May the Council had agreed to establish a working party with the terms of reference and chairmanship to be decided in consultations. The Council had also agreed to revert to this item at the present meeting.

The representative of the United States said that his delegation had been ready to enter into such consultations but had understood that the Community had been unavailable to consult. The United States would willingly agree to Mr. Lacarte as Chairman of the Working Party. His delegation had consulted informally with those delegations requesting a working party, and there seemed to be agreement that the standard terms of reference would suffice.

The representative of the European Communities said his delegation had taken note that the United States could agree to Mr. Lacarte as Chairman of the Working Party. The Community had not refused to consult on this subject and was still willing to cooperate. He said that traditional terms of reference could not be perpetuated when there had been many changes in the United States over the years; new elements had to be added to those terms of reference to take account of such changes.

The representative of Australia recalled the Community's statement at the May Council meeting that one of the Working Party's functions should be to make recommendations to the CONTRACTING PARTIES. In his delegation's view, the standard terms of reference allowed for this to be done. The fact that this had not been done in the past was not due to the terms of reference.

The representative of Canada recalled that his delegation had requested the Working Party, and was anxious to have its work begin. As there was nothing to prevent the Working Party from making recommendations, he urged that agreement on this matter be reached as quickly as possible.

The representative of the European Communities said that since the Working Party could make recommendations, the terms of reference could be drafted specifically to include this.

The representative of Australia expressed the hope that consultations on this issue would include those parties which had proposed and supported the request for the Working Party.

The Council took note of the statements. The Council also took note that agreement had been reached on the designation of Mr. Lacarte (Uruguay) as Chairman of the Working Party and that the Council Chairman would continue consultations on its terms of reference.

The Chairman confirmed that the Working Party would begin its work as soon as its terms of reference had been decided.

6. United States - Manufacturing Clause
- Follow-up on the Panel report (L/5609, L/5968)

The Chairman recalled that in May 1984, the Council had adopted the Panel report (L/5609) on the complaint by the European Communities. The Council had discussed this matter on 12 March, and had agreed on 22 May to revert to it at a future meeting. The item was on the agenda of the present meeting at the request of the European Communities.

The representative of the European Communities said there had been some positive developments in this matter regarding the likelihood that the US Manufacturing Clause would not be extended. The Community hoped that this was a reflection of the US Administration's efforts to prevent adoption of new legislation which would be in flagrant breach of its GATT obligations. Nevertheless, the threat remained that the proposed legislation would become law, and should this happen, the Community would have no option but to request the Council to authorize the withdrawal of equivalent concessions in a matter of weeks from the entry into force of any new legislation. His delegation hoped it would not have to exercise its right to revert to this matter at the next Council meeting.

The representative of the United States said that the US position on this matter had not changed since the Council meeting on 22 May, and had been clearly reflected in C/M/196 and 198. His delegation was still optimistic that the Manufacturing Clause would not be extended in any form. If, however, Congress passed a bill extending the Clause, the US Trade Representative would recommend that the President veto such legislation.

The Council took note of the statements.

7. Japan - Measures affecting the world market for copper ores and concentrates
- Request by the European Economic Community for a working party (C/W/439, L/5627, L/5654, L/5992)

The Chairman recalled that on 22 May the Council had agreed to revert to this item at the present meeting. He proposed that, following the informal consultations which had been held on this matter, the Council agree to establish a group of governmental experts, open to all interested contracting parties, with the following terms of reference:

> "To examine problems falling under the competence of the General Agreement relating to current trends in world trade in copper, including the supply and demand situation for copper concentrates and refined copper, and to report to the Council."

He also proposed that the Council authorize him to designate the Chairman of the group in consultation with interested delegations.

The representative of the United States recalled that the Community's request had been for a working party, and wondered why the Chairman had now proposed a group of governmental experts. The proposed terms of reference appeared somewhat broad, and it was not clear how they addressed some of the problems raised at the most recent Council meeting. Accordingly, his delegation felt there should be further consultations on this matter.

Mr. Mathur, Deputy Director-General, said that it had been considered more useful to have an expert-level examination of problems in this area, and to permit participants -- even if drawn from governments having a position on the issue -- to express their views. This had been thought to be a better way of getting a focussed understanding and analysis of the situation.

The representative of the United States said he was not sure how a group of governmental copper experts would be competent to determine, under the proposed terms of reference, what was under the competence of the General Agreement. For this reason, while not against the establishment of a working party or a group of experts, his delegation felt the terms of reference should be further examined. The United States was also a large copper producer and trader and had a definite interest in this area.

The Chairman said that this matter had been on the Council's agenda for a long time and that, in his view, it would be difficult to improve the proposed terms of reference, which had been the product of lengthy consultations.

The representative of the European Communities noted that the United States did not oppose establishment of a working party. The Council should take note of this, and consultations should continue on the terms of reference. The usual practice was that once the Council had agreed to establish a working party or group of experts, it was up to the Council Chairman to continue consultations on the terms of reference. These, and the Chairman of the Group, could be announced at the next Council meeting.

The representative of Japan said that his delegation could accept the Chairman's proposal, which had been agreed in informal consultations.

The representative of Chile commended Japan's good will in agreeing to set up a group of experts on this issue. Should one be established, Chile would send copper experts to participate in it. If agreement could not be reached at the present meeting on terms of reference, his delegation wanted to be consulted informally on this matter so that Chile's copper authorities could be kept apprised of developments.

The representative of the European Communities did not understand why a decision on principle to establish a group of experts could not be taken at the present meeting.

The representative of Japan said that in informal consultations his delegation had accepted as a package the establishment of a group of governmental experts and the proposed mandate.

The Council took note of the statements and agreed to revert to this item at its next meeting. In the meantime, the Chairman would try to hold consultations with interested parties.

8. Problems of Trade in Certain Natural Resource Products - Non-ferrous Metals and Minerals - Working Party report (L/5995)

The Chairman recalled that at its meeting in March 1984, the Council had established the Working Party on Trade in Certain Natural Resource Products to study the three sectors of non-ferrous metals and minerals, forestry products, and fish and fisheries products, and to make separate reports for each sector. The Chairman of the Working Party had submitted an interim report on Non-ferrous Metals and Minerals to the Council at its meeting in November 1985. The Working Party's final report on this subject was contained in document L/5995.

Mr. Tong (Hong Kong) introduced the report (L/5995) on behalf of Mr. Cartland (Hong Kong), Chairman of the Working Party. He said that the Working Party had conducted its work on the basis of six background studies prepared by the Secretariat -- one on each of the six major

metals (aluminium, copper, nickel, tin, lead and zinc) -- as well as on other GATT studies and information provided by some of its members. The Working Party had examined problems affecting trade in these products, including in their semi-processed and processed forms. The report covered observations made in the Working Party on the basis of the background studies with respect to trade in non-ferrous metals and minerals and commercial policy measures. Concluding remarks were set out in paragraphs 12, 13 and 14 of L/5995.

The representative of Canada said that the report accurately summarized the thrust of the Secretariat's background studies, as well as the discussion in the Working Party. The report, as well as the Working Party's reports on forestry products and on fish and fisheries products, pointed to a range of problems affecting trade in these products and highlighted the importance of the early initiation of the next round of multilateral trade negotiations in which it was essential that those subjects be clearly included.

The representative of Sweden, on behalf of the Nordic countries, said that the Working Party had had good background material for its discussion. A number of measures affecting trade in this sector had been identified, such as nominal tariffs, tariff escalation and various non-tariff measures. The Working Party had considered that the best way to reduce or eliminate those measures was through multilateral negotiations. The Nordic countries agreed that the goal of trade liberalization in the sectors studied should be pursued by using as general an approach and formula as possible.

The representative of Australia supported adoption of the report and agreed with Canada's statement regarding the value of these reports in identifying problems of trade in natural resource products. The Working Party's reports would be important background documents in the new round when negotiations began on the liberalization of trade-restrictive and trade-distorting measures in these sectors.

The representative of Zaire supported adoption of the report and recalled the problems that had been encountered in the Working Party in discussing all aspects of trade problems in the sectors examined. His delegation had not taken the floor when the group of experts on copper trade had been discussed at the present meeting[1] because it felt these matters should properly be raised at the time of the new round of negotiations.

The Council took note of the statements and adopted the report.

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[1] See item 7.

9. United States - Imports of lumber from Canada

The representative of Canada, speaking under "Other Business", said that on 6 June, the International Trade Administration of the US Department of Commerce had decided to investigate again softwood lumber imports from Canada, valued at more than Canadian $3.6 billion in 1985. With respect to the primary issue at stake, namely provincial stumpage (the price fixed for the right to cut government-owned standing timber), the Department of Commerce had already rejected in 1983 the allegation that this conferred either an export or a domestic subsidy to Canadian lumber producers. There had been no material changes in Canadian practice since the 1983 decision by the Department of Commerce on the same basic issues and no relevant changes in US countervailing law. The decision to re-examine Canadian provincial stumpage practices represented unjustifiable trade harassment. The Canadian Government was deeply concerned about these issues and would ask for a special meeting of the Committee on Subsidies and Countervailing Measures to review the facts of this case urgently. His delegation believed that all contracting parties had an interest in the broader issues raised by this case. Natural-resource pricing policies, because they related both to matters of national sovereignty as well as to comparative advantage, were of fundamental importance to the contracting parties. All contracting parties, whether producers or consumers, had an interest in ensuring that the sovereign right to develop natural resources and maintain the general comparative advantage of natural-resource producing countries continued to be recognized. Canada believed in particular that the unilateral right to countervail granted under Article VI and the Subsidies and Countervailing Measures Code (BISD 26S/56) was not intended to be used to negate a country's general comparative advantage. It should be recognized that the precedent set by a move unilaterally to broaden, and in the process make more ambiguous, the concept of subsidy would affect all contracting parties. A wide range of resource and resource infrastructure policies could be affected.

The representative of the United States said that the countervailing duty investigation was not an unjustifiable trade harassment; it was consistent with the General Agreement, with the Subsidies and Countervailing Measures Code, and with US law. Under the latter, the USITC had until 3 July to reach a preliminary determination of whether the US industry was being injured by these imports. The petition at issue gave new evidence which the Department had not had in the earlier investigation; it alleged that certain provinces limited the beneficiaries of stumpage to the lumber industry, excluding other industries which would otherwise benefit from those provinces' stumpage policies.

The Council took note of the statements.

10. Procedures for future appointment of the Director-General

The representative of Brazil, speaking under "Other Business", recalled that on 15 May the Council had agreed that detailed rules and procedures be examined for the appointment to the office of Director-General in future and for the renewal of such appointment. At that meeting, his delegation had said that it intended to present formally at a later stage some elements for the consultations envisaged in the Council's decision on new rules and procedures. Brazil now submitted these elements to the Council and asked that they be circulated to the contracting parties for appropriate consideration.[1] Brazil wanted to be informed about the arrangements for the consultations to examine detailed rules and procedures, as agreed by the Council on 15 May.

The Council took note of the statement.

11. Hong Kong's status as a contracting party

The representative of India, speaking under "Other Business", recalled that at the Council meeting on 22 May his delegation had made a statement reserving India's rights concerning Hong Kong's status as a contracting party and had stated its intention to revert to this matter at a future meeting. He said his authorities recognized Hong Kong as a contracting party in view of the declaration by the United Kingdom (L/5986), but found it difficult to accept Hong Kong's status as a contracting party with effect from July 1997 on the basis of the communication from the People's Republic of China (L/5987). This was not only because China was not a contracting party but also because the exact status of Hong Kong under the General Agreement, when the People's Republic of China would resume sovereignty over it in 1997, was not clear. India therefore reserved its position regarding the status of Hong Kong as a contracting party from 1 July 1997.

The Council took note of the statement.

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[1] Subsequently issued as C/W/499.