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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
6 October 1981

MINUTES OF MEETING

Held in the Centre William Rappard on 6 October 1981

Chairman: Mr. D.S. McPHAIL (Canada)

Subjects discussed:			Page
	1.	Tax legislation	2
		(a) Income tax practices maintained by France	2
		(b) Income tax practices maintained by Belgium	2
		(c) Income tax practices maintained by the Netherlands	2
		(d) United States tax legislation (DISC)	2
	2.	Committee on Balance-of-Payments Restrictions	3
		(a) Appointment of a new Chairman	3
		(b) Turkey - Stamp duty	3
	3.	Spain - Measures concerning domestic sale of soyabean oil	4
		- Report of the Panel	4
	4.	Agreement between Finland and Hungary	4
	5.	Agreement between the EEC and Yugoslavia	4
		- Report of the Working Party	4
	6.	Sub-Committee on Protective Measures	5
		- Report of the Sub-Committee	5
	7.	United States - Imports of certain automotive spring assemblies	5
	8.	European Communities - Imports of frozen cod fillets from Canada	6
	9.	Spain - Tariff treatment of unroasted coffee	6
	10.	Second ACP/EEC Convention of Lomé	7
	11.	Notification and Surveillance	7

1. Tax legislation

(a) Income tax practices maintained by France (C/114, L/4423)
(b) Income tax practices maintained by Belgium (C/115 and Corr.1, L/4424)
(c) Income tax practices maintained by the Netherlands (C/116, L/4425)
(d) United States tax legislation (DISC) (L/4422)

The Chairman recalled that at its meeting in July 1981 the Council had agreed to revert to these matters at its next meeting.

The representative of France recalled that in December 1980 his delegation had made a request to the Council (C/114) to adopt the Panel Report in document L/4423, and in so doing, to state that the activities covered by the French legislation did not come within the purview of Article XVI:4 of the General Agreement, since they took place within the territory of the importing country after the sale to the foreign buyer, and that economic transactions related to exported goods, taking place outside the territorial limits of the exporting country, were not to be considered export activities within the meaning of that provision and should not be taxable by the exporting country.

The representative of Belgium recalled that in December 1980 his delegation had made a request to the Council (C/115 and Corr.1) to adopt the Panel Report in L/4424, with a similar qualifying statement to the effect that the activities covered by the Belgian fiscal legislation were not export activities. He stressed that the Belgian legislation was aimed at the avoidance of double taxation, and noted that in the context of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement, it had been recognized that such measures could not be considered as export subsidies. He also stressed that many contracting parties had similar legislation, including the United States, whose laws went even further by providing a total exemption on foreign source earnings.

The representative of the Netherlands associated his delegation with the statements made by the representatives of France and Belgium, and referred to the request by his authorities (C/116) in December 1980 that the Panel Report in document L/4425 be adopted by the Council with a statement similar to those requested by the other two delegations. He felt that in the meantime some progress had been made towards resolving the outstanding differences on these matters.

The representative of the United States regretted that no solution had yet been reached in respect of the four Panel Reports, despite the strenuous efforts made by all the parties. Noting that complex and basic tax issues were involved, about which all countries were especially sensitive, he expressed the view that the parties' remaining differences had been narrowed and was hopeful that they could be quickly resolved.

The representatives of France, Belgium and the Netherlands also expressed regret that the Council could not take further action at the present meeting.

The representative of the European Communities expressed regret that a consensus could not yet be reached on these matters, and hoped that further efforts would be made to find an equitable and mutually satisfactory solution. His delegation fully supported the requests made by France, Belgium and the Netherlands to adopt their three respective reports with the qualifications suggested, as well as the Panel Report on United States tax legislation (DISC) in document L/4422.

The Chairman noted that it had not been possible for the Council to take decisions on these matters and that the interested parties appeared willing to engage in further discussions. Recalling the long history of Council consideration of these matters, he urged the principally interested delegations to reconcile their remaining differences as rapidly as possible. To this end, he suggested that they begin intensive discussions without delay and advise him immediately when a successful conclusion had been reached, so that the Council could meet again to take action on these matters, if necessary, at an earlier meeting than foreseen.

The Council agreed to revert to this item at its next meeting.

2. Committee on Balance-of-Payments Restrictions

(a) Appointment of a new Chairman

The Chairman informed the Council that Mr. Martin (Canada), Chairman of the Committee on Balance-of-Payments Restrictions, had departed from Geneva.

The Council agreed to appoint Mr. Feij (Netherlands) as the new Chairman of the Committee.

(b) Turkey - Stamp duty (L/5190)

The Chairman drew attention to a communication from Turkey (L/5190) requesting an extension of the stamp duty waiver, scheduled to expire on 31 December 1981, and asking that this matter be considered by the Committee on Balance-of-Payments Restrictions at its meeting scheduled for 14 October 1981.

The Council agreed to refer this matter to the Committee on Balance-of-Payments Restrictions.

3. Spain - Measures concerning domestic sale of soyabean oil - Report of the Panel (L/5142 and Corr.1, L/5161, L/5188, C/M/149)

The Chairman recalled that in July 1981 the Council had received the report of the Panel which had been established to examine the complaint by the United States regarding Spanish measures concerning domestic sale of soyabean oil (L/5142 and Corrigendum 1). In July 1981 the Council also had before it a communication from the United States in document L/5161. At that meeting the Council had agreed to defer this item to a future meeting in the autumn. Subsequently, a communication from Spain had been circulated in document L/5188. He said that he had been informed that in the light of the fact that this latest document had only recently been circulated, several delegations requested that consideration of this item be carried over to the next meeting of the Council.

The representative of Spain expressed regret that the Council was unable to discuss this item. He pointed out that the content of document L/5142 had been known by the interested parties since the end of 1980, and that the other contracting parties had been informed of the content of this document in mid-June 1981. He added that neither document L/5161 nor document L/5188 raised any new elements, since both documents reflected views which had already been expressed by the two parties before the Panel. He said that his delegation would respect the consensus which seemed to appear for further delay in the examination of this matter, on the understanding that there would be a substantive discussion at the next meeting of the Council.

The representative of the United States said that his delegation also believed that this item should be debated at the next Council meeting, and urged all contracting parties to study carefully the Panel's Report and the other two documents referred to on this matter, so that the Council could have a full and informed discussion at that time.

The Council agreed to revert to this item at its next meeting.

4. Agreement between Finland and Hungary (L/5187)

The Chairman drew attention to document L/5187 which contained information furnished by the parties to the Agreement between Finland and Hungary on the Reciprocal Removal of Obstacles to Trade.

The Council took note of the Report.

5. Agreement between the EEC and Yugoslavia - Report of the Working Party (L/5191)

The Chairman recalled that in December 1980 the Council had established a Working Party to examine, in the light of the relevant provisions of the General Agreement, the Interim Agreement between the European Economic

Community and the Socialist Federal Republic of Yugoslavia on Trade and Co-operation, signed on 6 May 1980, and to report to the Council. The Working Party had now concluded its work and had submitted its Report in document L/5191.

Mr. Hochörtler (Austria), Chairman of the Working Party, said that the Working Party had carried out its examination on the basis of the text of the Agreement, as well as replies by the parties to the Agreement to questions which had been asked by contracting parties. He drew attention to the conclusions at which the Working Party had arrived, contained in paragraphs 22-25 of the Report.

The Council took note of the statement and adopted the Report.

6. Sub-Committee on Protective Measures - Report of the Sub-Committee (COM.TD/SCPM/3)

The Chairman recalled that in March 1980 the Committee on Trade and Development had established a Sub-Committee on Protective Measures (COM.TD/104) in accordance with the Decision of the CONTRACTING PARTIES of 28 November 1979 on the Examination of Protective Measures affecting Imports from Developing Countries (BISD 26S/219). That Decision provided that the Sub-Committee would report on its work to the Committee on Trade and Development and through it to the Council.

At its July 1981 meeting the Committee on Trade and Development (COM.TD/108) had adopted the Report of the Sub-Committee (COM.TD/SCPM/3) on its third session, and had forwarded the Report to the Council.

The Council adopted the Report.

7. United States - Imports of certain automotive spring assemblies (L/5195)

The representative of Canada, speaking under "Other Business", referred to a notification by his delegation concerning United States action on imports of certain automotive spring assemblies from Canada (L/5195). He pointed out that his authorities were seriously concerned lest the exclusion order referred to therein be allowed to stand, in the light of the practical consequence that all spring assemblies in question for the United States market would have to be produced in the United States. He explained that Canada had urged that the President of the United States use his discretionary authority to disapprove the exclusion order.

The representative of the United States said that while there appeared to be a difference of opinion as to the legal status of earlier consultations and written representations on this matter, his delegation was nonetheless prepared to discuss it further with the delegation of Canada.

The representative of Canada said that three formal written representations had been made to the United States authorities, and that bilateral consultations under Article XXIII:1 had taken place in Washington. He agreed to further discussions with the United States delegation, but added that at the next meeting of the Council his delegation would seek the establishment of a panel should the exclusion order not be disapproved by the United States President.

The Council agreed to revert to this item at its next meeting.

8. European Communities - Imports of frozen cod fillets from Canada

The representative of Canada, speaking under "Other Business", referred to the recent notification by the European Economic Community (L/5193) concerning temporary measures prohibiting the import and sale in the United Kingdom and Ireland of certain cod fillets unless the imports complied with the reference prices for the products in question. He said that the communication had not made it clear as to the Article of the General Agreement under which the action had been taken. He stated that his delegation intended to take up the Community offer to consult bilaterally, and might wish to raise this matter at a future meeting of the Council.

The Council took note of the statement.

9. Spain - Tariff treatment of unroasted coffee

The representative of Spain, speaking under "Other Business", referred to the discussion at the meeting of 11 June 1981, at which the Council adopted the Report of the Panel on tariff treatment of unroasted coffee. He informed the Council of the contents of a communication sent by his authorities on 3 September 1981 to the International Coffee Organization, summarizing the measures adopted by Spain to settle this matter. Following high level discussions in Brasilia, the Spanish Secretary of State for Trade had communicated to the Brazilian Minister for Planning, in a letter dated 17 June 1981, the Spanish decision to take the necessary steps prior to 31 December 1981 so that equal tariff treatment would be accorded by Spain to unwashed Arabica and other unroasted coffees. He added that, accordingly, Spain had already started the necessary legislative procedures to modify the Royal Decree 1764/79, and he expressed the hope that this information would be useful, and would show the goodwill of his country in attempting to settle this matter along the lines of the contents of the Panel report.

The Council took note of the statement.

10. Second ACP/EEC Convention of Lomé - Designation of Chairman of the Working Party

The Chairman, speaking under "Other Business", recalled that in March 1981 the Council had agreed to establish a Working Party to examine the second ACP/EEC Convention of Lomé and had authorized the Chairman of the Council to designate the Chairman of the Working Party in consultation with delegations.

He informed the Council that Ambassador O'Brien (New Zealand) had been designated Chairman of the Working Party.

The Council took note of the designation.

11. Notification and Surveillance

The Chairman, speaking under "Other Business", recalled his announcement at the previous Council meeting to the effect that he intended to engage in consultations with delegations in the near future concerning the arrangements for the next review. He said that these consultations could be expected to take place in the second half of October, with a view to conducing the review at a special meeting of the Council in November, between its next regular meeting and the thirty-seventh session of the CONTRACTING PARTIES. He invited delegations interested in taking part in the consultations to make this known to the secretariat.