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Chairman: Mr. E. FARNON (New Zealand)

Subjects discussed:			Page
	1.	India - Auxiliary duty of customs	1
	2.	Accession of the Philippines	2
	3.	Japan - Measures on imports of leather	4
	4.	Turkey - Stamp duty	6
	5.	Customs unions and free-trade areas; regional agreements	6
		(a) Central American Common Market	7
		(b) Latin American Free-Trade Area	7
	6.	Final position of the 1978 budget	7
	7.	Brazil - Renegotiation of schedule	8

1. India - Auxiliary duty of customs (L/4790, C/W/320)

The Chairman drew attention to a request from the delegation of India for an extension of the waiver on the Indian auxiliary duty of customs (L/4790).

The representative of India recalled that the auxiliary duty of customs had been introduced as one of the temporary measures for the mobilization of resources for urgent development and social welfare requirements. The special circumstances which had compelled the Government of India to maintain the auxiliary duty last year continued to exist. He pointed out that the difference between India's total disbursements and total receipts during the current financial year was estimated at Rs 13,550 million in spite of an additional tax effort which had mobilized Rs 6,650 million for essential development activities. It was therefore not possible to forego the revenue accruing from the auxiliary duty of customs. His Government furthermore, could not merge the auxiliary duties with the basic duties on account of certain financial and practical implications.

He stated that the rates of the auxiliary duty of customs and the conditions governing its levy had remained unchanged. He recalled that the rates were 5 per cent on items with a basic customs duty of less than 60 per cent or on which

specific alternate or composite rates were applied, 15 per cent on items subject to a basic customs duty between 60 per cent and less than 100 per cent, and 20 per cent on other items. Exempt from the auxiliary duty were imports of food grains, tallow, books, raw cotton, agricultural implements, machinery and certain other categories of goods. The incidence on items bound in the GATT had been kept at the lowest possible levels and, except for four items, continued to be either nil or 5 per cent. He considered therefore that these duties would not have an adverse effect on imports into India within the framework of India's obligations under GATT. He reiterated his delegation's willingness to consult with any contracting party which considered that serious damage was caused or threatened to its trade interests by the application of the auxiliary duties.

The representative of the United States said that he could support the request made by India for a further extension of the waiver. It was his delegation's understanding, however, that the items under the waiver did not include items on which Article XXVIII negotiations were taking place. He believed that the number of items affected by the waiver was relatively small and the duty thus had minimal revenue effect. He hoped, therefore, that India would be able to phase out the auxiliary duties in the course of the year.

The Council approved the text of the draft decision (C/W/320) and recommended its adoption by the CONTRACTING PARTIES by postal ballot.

2. Accession of the Philippines (L/4784)

The Chairman recalled that the Council had considered in November 1978 the application for accession to the GATT by the Government of the Philippines and had established a working party to examine this matter. The report of the Working Party had been distributed in document L/4784.

Mr. Tomić, Chairman of the Working Party, introduced the report and said that the Working Party had carried out an examination of the Philippines' foreign trade régime and had given particular attention to the Philippines' anti-dumping law, the application of countervailing duties, flexible tariff rates, differential internal tax rates, foreign exchange regulatory measures, consular formalities, customs valuation, marking requirements and State trading. He said that the Working Party had found that internal taxes were, in some cases, applied to imported goods at rates higher than those applicable to the same goods manufactured in the Philippines. The Working Party had noted that it was the intention of the Philippines Government, in reviewing its internal tax system consistently with its development, financial and trade needs to take account of the points raised and to bring its tax system into line with the provisions of the General Agreement, including Article III. Because of the domestic difficulties referred to by the Philippines representative in this connexion, the Working Party recommended that the Philippines should be given a five-year period to achieve this.

He said that the Working Party had reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, the Philippines should be invited to accede to the GATT under the provisions of Article XXXIII. To that effect the Working Party had prepared a draft decision and Protocol of Accession for the Council's approval. As to the date to be inserted in paragraph 6 of the Protocol, he proposed that the Protocol should be open for signature by the Philippines until 1 December 1979. The Working Party proposed that when the tariff negotiations between the Philippines and contracting parties would be completed, the Schedule resulting from these negotiations would be annexed to the Protocol and that thereafter, the Decision regarding accession would be submitted to a vote in accordance with the provisions of Article XXXIII. Following adoption of the Decision, the Protocol would be open for acceptance by the Philippines.

The representative of the European Communities said that the tariff negotiations between the EEC and the Philippines were expected to lead to mutually satisfactory results. The Community could support the adoption of the report and the approval of the draft Decision and the draft Protocol annexed to the report.

The representative of Japan, in expressing his delegation's support for the Philippines accession, hoped that the Philippines would be able to submit its tariff schedule as soon as possible. He supported the adoption of the report of the Working Party and the approval of the draft Decision and the draft Protocol annexed to the report.

The representative of India, in welcoming the Philippines' accession, said that the Philippines had played an active rôle in affairs of interest to developing countries. He expressed the hope that the accession of the Philippines would be completed soon.

The Council approved the text of the draft Protocol of Accession, including the date of 1 December 1979 to be inserted in paragraph 6 of the Protocol, on the understanding that, when the negotiations with the Philippines had been terminated, Schedule LXXV would be circulated to the contracting parties as an addendum to the Working Party's report and would be annexed to the Protocol of Accession.

The Council also approved the text of the draft Decision and agreed that the Decision would be submitted to a vote by postal ballot when the Philippines Schedule had been circulated.

The Council adopted the report of the Working Party.

The representative of the Philippines expressed his delegation's appreciation for the adoption of the report and for the approval of the draft Decision and the draft Protocol of Accession. He said that his authorities would complete the tariff negotiations as soon as possible and that they would then circulate the Schedule rapidly to the contracting parties.

3. Japan - Restraints on imports of leather (L/4789)

The Chairman recalled that a complaint by the United States regarding Japanese restrictions on imports of certain leather goods had been referred to a panel for examination under the provisions of Article XXIII. The report of the Panel had now been circulated in document L/4789.

Mr. Ostenfeld (Denmark) introduced the report on behalf of the Panel and said that the Panel had met on 26 January and 26 February 1979. It had heard statements by representatives of the United States and Japan as well as from Australia, Canada, India and New Zealand, which had expressed an interest in the matter.

On 26 February the Panel was informed that following bilateral consultations between the United States and Japan an agreement had been reached as a result of which the United States was withdrawing its complaint. He said that the two parties had reserved their rights under the General Agreement to reopen the GATT proceedings if the conclusions reached were not put into practice to their mutual satisfaction. The two parties were prepared to provide information on the substance of the conclusions reached to other interested parties upon request and to consult with them. The Panel was of the view that the agreement between the two parties constituted a solution to the matter before it and considered the proceedings under Article XXIII:2 to be terminated.

The representative of the United States expressed his delegation's appreciation for the work performed by the Panel and confirmed that as a result of bilateral consultations with Japan the United States had arrived at a successful conclusion of the matter and had withdrawn its complaint. The United States therefore considered the matter closed and expected the Council to adopt the report.

The representative of Japan also expressed his appreciation to the Panel for having brought this issue expeditiously to a successful conclusion through their good offices. He supported the adoption of the report.

The representative of Australia recalled that his delegation had expressed its interest in this matter and said that Australia had presented to the Panel a detailed submission setting out the reasons why Australia believed that the Japanese measures in respect of imports of leather were inconsistent with a number of GATT provisions. He also mentioned that Australia had sought in bilateral discussions over a number of years a liberalization in Japan's import régime for leather. He stated that in the absence of any formal undertaking by the Japanese authorities to amend the import measures in question, his delegation was of the opinion that the

adoption of the Panel's report should be deferred. He stated that his authorities were of the view that the United States complaint under Article XXIII relating to this matter was fully justified. Australia was also of the view that any settlement between Japan and the United States did not relieve Japan of its GATT obligations to other interested contracting parties. In the absence of suitable guarantees from Japan that there would be equitable and predictable access for imports of leather from Australia his delegation reserved the right to ask the Council to establish a panel which should proceed to report its findings on whether the Japanese measures in question were consistent with Japan's obligations under the GATT.

The representative of Canada said that Canada had a strong interest in this case and had made a presentation to the Panel stating its opinion that the Japanese restrictions against leather imports were inconsistent with Japan's obligations under the GATT. It seemed to him that the quantitative restrictions, licence controls and restrictive import administrative procedures applied by Japan in respect of these leather items which were bound in Japan's Schedule, would not be significantly liberalized as a result of the agreement reached between the United States and Japan. He therefore believed that it was premature for the Council to adopt the report. Furthermore, his authorities would need more time to study the report and the details of the settlement which had been made available only recently. Canada intended to continue bilateral consultations with Japan and in the meantime fully reserved its GATT rights in this respect.

The representative of New Zealand said that his delegation had also made a presentation to the Panel in which it expressed concern about the measures in question. He pointed out that the report had only been distributed recently and his authorities had not yet had time to study this report. He therefore asked that the adoption of the report be deferred.

The representative of India said that his delegation had also made a presentation to the Panel in which it stated that the Japanese import measures in respect of leather were inconsistent with Japan's GATT obligations, including those under Article XXXVI:5. He supported the request for more time to study the report and, in particular, the implications of the bilateral settlement for third parties. His delegation reserved all its rights under the GATT in this regard and it was his Government's intention to enter into bilateral consultations with Japan on this subject.

The representative of the European Communities stated that he took note of the offer for bilateral consultations made by the two parties. It was, furthermore, his understanding that certain delegations had asked for a deferral of the adoption of the report to the next meeting of the Council because their authorities had not had enough time to study the report.

The representative of Japan pointed out that the aim of the dispute settlement procedure under Article XXIII was to bring a bilateral dispute to a mutually satisfactory solution. This had been achieved and the United States had withdrawn its complaint against Japan. The Panel had therefore declared that it considered the procedure under Article XXIII:2 to be terminated. He reiterated the readiness of his Government to give third countries having interests in exports of leather to Japan, upon request, explanations on a bilateral basis and to have bilateral consultations on the administration of the quotas vis-à-vis such countries. He stressed that there was no precedent in GATT, once a mutually satisfactory solution had been reached between the two parties concerned, for not adopting a panel's final report due to the intervention of third parties. He therefore proposed that the Council should adopt the report.

The Council agreed in view of the fact that the report had been circulated only recently so that governments had not had sufficient time to study it, to revert to this matter at its next meeting.

4. Turkey - Stamp duty (L/4779 and Corr.1)

The Chairman drew attention to the report made by the Government of Turkey under the terms of the Decision of 17 April 1976 (L/4779).

The representative of Japan and the United States said that their delegations were interested in information about the system of the value-added tax, which was to replace the stamp duty, and about the date on which the system might be introduced.

The representative of Turkey said that his Government was aware of the fact that the stamp duty was justified only on a temporary basis and that it should be replaced by other more appropriate measures. The stamp duty would, therefore, be replaced by a value-added-tax system. The draft legislation for this tax was ready and was likely to be submitted to Parliament this year.

The Council took note of the report.

5. Customs unions and free-trade areas; regional agreements (L/4731 and Add.1; L/4785)

The Chairman said that under the procedure established by the Council for the distribution of biennial reports under regional agreements, reports had been submitted on the Central American Common Market and on the Latin American Free-Trade Association.

(a) Central American Common Market

The Chairman drew attention to the reports submitted by the secretariat of SIECA and by the Government of Nicaragua on developments in the Central American Common Market (L/4731 and L/4731/Add.1).

The Council took note of the reports.

(b) Latin American Free-Trade Association

The Chairman drew attention to document L/4785 containing a report on activities in LAFTA in 1976-1977.

The representative of Brazil introduced the report and said that the concessions granted by Contracting Parties contained in the National Schedules reached a total of 11,177 and there were 7,575 exclusive concessions in force in favour of the relatively less-developed members of the Association. He mentioned that in the field of industrial complementarity agreements, six existing agreements had been renegotiated and three new agreements had been signed. The latter agreement concerned the aromatic-chemical, perfume and flavouring industry, the electrical generating, transmission and distribution equipment industry and the electronics and electric communication industry. Furthermore, 1,918 concessions covering about 900 items were brought under the scope of the industrial complementarity agreements. Inter-area imports had risen by 11.6 per cent in 1976 and had reached US$4,598 million. He also said that work had proceeded to harmonize national tariff and customs legislation, to develop a trade promotion programme and to extend the credit and payments system. As regards the Cartagena Agreement he mentioned that the member countries had continued to implement the programmes under that Agreement. In accordance with the Lima Protocol of 1976 the time-limits set in various mechanisms had been extended. He drew attention, furthermore, to the establishment of the Andean Reserve Fund to guarantee loans in support of balance of payments and to assist in the harmonization of the monetary and exchange policies of the member countries.

The Council took note of the report.

6. Final position of the 1978 budget of the GATT (L/4787)

The Chairman drew attention to document L/4787 containing a report on the Final Position of the 1978 Budget of the GATT. He referred to the outstanding contributions of contracting parties as presented in Annex A, and said that since further contributions had been received from a number of contracting parties the total amount outstanding was Sw F 3,882,984.

The Chairman also referred to paragraph 5 of the report concerning certain excess expenditure over approved appropriations in one section of the budget. He said that authority was sought to increase the appropriation by transfers as set out in that paragraph.

The Council authorized the increase in the appropriation and approved the proposed financing.

7. Brazil - Renegotiations of Schedule

The representative of Brazil informed the Council that the renegotiations under the waiver Decision of 26 November 1975, which was to expire at the end of March 1979, had been concluded with all interested contracting parties. He added that the concessions had already been implemented and were in effect.

The Council took note of the statement.