GENERAL AGREEMENT ON

TARIFFS AND TRADE

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MINUTES OF MEETING

Held in the Centre William Rappard
on 8 April 1988

Chairman: Mr. A. H. Jamal (Tanzania)

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1. Japan - Restrictions on imports of beef and citrus products* - Recourse to Article XXIII:2 by the United States (L/6322)

The Chairman noted that this additional Council meeting had been convened at the request of the United States, and drew attention to document L/6322.

The representative of the United States said that Japan maintained a system of import restrictions on fresh, frozen and chilled beef, and separate import restrictions on oranges and orange juice. These restrictions were inconsistent with Japan's obligations under Article XI

*See C/M/218, item 17 ("Japan - Import restrictions on additional agricultural products").

and had been unjustified for the 26 years since Japan had ceased to invoke Article XII in 1962. In addition, the mixing requirement that imported orange juice be blended with domestic orange juice as a condition for its sale in the Japanese market was clearly inconsistent with Japan's obligations under Article III. Since the 1960s, the United States and Japan had held many consultations on these restrictions, and in 1984 had reached an agreement which provided for expansion of quotas on a most-favoured-nation basis; that agreement had expired on 31 March 1988. In late March, consultations had been held at the political and at the technical level, but those consultations had been unsuccessful. In the light of the recently-adopted panel decisions on other agricultural import restrictions applied by Japan[1], and on the state-trading aspects of Canada's provincial liquor boards[2], it seemed obvious to the United States that the outcome of this dispute was not in doubt. Japan's practices -- the import quotas, the administration thereof, and the mixing requirement -- were causing immediate and substantial harm to US exports, with up to US$ one billion of trade at stake. For these reasons the United States was requesting establishment of a panel under Article XXIII:2, and was convinced that it was time to bring this matter to the GATT dispute settlement process for final resolution.

The representative of Japan stressed that his country's basic stance was to respect GATT dispute settlement procedures in solving trade disputes, and that these procedures favoured consultations between the disputing parties as the most desirable mode of solution. He underlined the fact that high-level consultations aimed at a mutually satisfactory solution were still continuing between Japan and the United States. Under these circumstances, Japan considered that it was not appropriate to bring this matter to the CONTRACTING PARTIES and to establish a panel at the present juncture. He explained the importance of beef and citrus for Japan, as well as Japan's current efforts to improve access to its market. These products were important not only for the sound development of Japan's economy in many regions, but also for environmental protection. The Japanese producers involved were making utmost efforts to improve productivity, and the elimination of import restrictions on these two items would lead to extremely difficult political problems. Japan had been making every effort for a steady increase in imports of these items through consultations with major supplying countries. His delegation was convinced that through such consultations, practical solutions satisfactory to all the parties concerned could be found.

The representative of the European Communities said that the Community had an interest in this matter for a number of reasons, and reserved its rights to make a submission to a panel should one be established. He added

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[1]Panel report on Japanese restrictions on imports of certain agricultural products (L/6253) adopted on 2 February 1988.

[2]Panel report on import, distribution and sale of alcoholic drinks by Canadian provincial marketing agencies (L/6304) adopted on 22 March 1988.

that the concerns the Community had raised in its statement at the 22 March Council meeting in relation to items 4 and 5 were also relevant in the present case.

The representative of Australia said that his country was the major supplier of beef to Japan; in 1986 those exports totalled 105,000 tons with a value of $A430 million. Notwithstanding the current size of that trade, Australia considered that the potential growth of Japan's market had been unreasonably constrained by an extremely restrictive import quota system. Australia was also concerned that its share of that market had been declining, due largely to the manner in which that system was structured and administered. Australia had made many representations to Japan about this system at both official and Ministerial levels. Australia had requested Article XXIII:1 consultations with Japan to seek liberalization of the Japanese market in a manner which would be consistent with Japan's obligations as a contracting party; one possible outcome of those consultations was that Australia might seek establishment of a panel at the May Council meeting.

The representative of Canada said that for reasons which had already been brought out in the discussion, his delegation supported the establishment of a panel in this case and reserved its rights to make a submission to it.

The representative of Chile supported the establishment of a panel. As this matter concerned two products exported by Chile, his delegation reserved its rights in that regard.

The representative of New Zealand said that Japan was his country's third largest market for beef after the United States and Canada. New Zealand therefore had a strong commercial and policy interest in this issue and in any settlement of it. His delegation supported the establishment of a panel and reserved its rights to make a submission to it.

The representative of the United States said that his delegation was heartened by the support of other contracting parties and was prepared to consult again with Japan prior to the May Council meeting. He hoped and expected that should a solution not be reached before then, Japan would not stand in the way of establishing a panel at that meeting.

The representative of Japan said that his authorities would give sympathetic consideration to Australia's request for Article XXIII:1 consultations on this issue. Regarding the US statement, his delegation was convinced that every effort would be made in the coming days to work out a satisfactory solution to this matter.

The Council took note of the statements and agreed to revert to this item at its next meeting.

2. Korea - Restrictions on imports of beef
- Recourse to Article XXIII:2 by the United States (L/6316)

The Chairman recalled that at its meeting on 22 March, the Council had agreed to revert to this matter at its next meeting.

The representative of the United States said that as his delegation had stated at the March Council meeting, the United States believed that it had exhausted Article XXIII:1 consultations on Korean import policies affecting beef. The United States did not consider that further Article XXIII:1 consultations were warranted, and therefore renewed its request for the establishment of a panel to examine this matter.

The representative of Korea said that his delegation still believed that bilateral consultations under Article XXIII:1 had not yet been fully exhausted. It was Korea's understanding that the question of panel establishment would be discussed at the Council meeting already scheduled for 4 May. His authorities were formulating Korea's position with that in mind, and his delegation was not in a position to agree to the request for a panel at the present meeting. Korea had made and was prepared to continue making its best efforts to seek a practical solution to the question of beef imports. Should bilateral consultations fail to produce a mutually acceptable solution before the Council meeting scheduled for 4 May, Korea would examine in a positive way the establishment of a panel on this issue.

The representative of Australia recalled that at the March Council meeting, his delegation had made known Australia's interest as the principal supplier of beef to Japan. Since that meeting, his delegation had held two rounds of Article XXIII:1 consultations with Korea, in which Australia had indicated that it was looking to Korea to introduce arrangements which would lead to a liberalization of its beef market in a manner compatible with its GATT obligations. Australia might seek establishment of a panel on this issue at the May Council meeting.

The representative of Canada recalled that his delegation had supported the request for a panel at the March Council meeting, and reiterated that Canada attached great importance to the right of a contracting party to have a panel established under Article XXIII:2. Therefore, Canada viewed with some concern a situation in which a request had been repeated at two Council meetings without any action having been taken. He noted Korea's statement that should this matter remain unresolved by the time of the next Council meeting, Korea would look positively at the establishment of a panel. Canada took that as an indication that should this matter remain unresolved, the Council should be able to establish a panel at its next meeting.

The representative of New Zealand said his delegation believed that the US request for a panel was appropriate. New Zealand had an interest in this issue and reserved its rights to make a submission to a panel should one be set up.

The representative of the United States said that his delegation was heartened by the support of other contracting parties, but was concerned over Korea's indication that consultations had not been exhausted. In the US view, it was the prerogative of the complaining party, not the party against which the complaint was brought, to determine whether further consultations were appropriate; otherwise the dispute settlement mechanism would quickly collapse. The United States had concluded that further consultations would not be beneficial, and so renewed its request for a panel. The United States considered Korea's unwillingness to accept that request unfortunate. Such action unduly delayed the dispute settlement process. His delegation urged Korea to reconsider its position. In the light of Korea's continued unwillingness to allow the dispute settlement process to function, his delegation might have to consider what other avenues were available to it to deal with this issue. His delegation was not convinced that Korea had indicated its willingness to agree to the establishment of a panel at the next Council meeting should further consultations prove unsuccessful.

The representative of the European Communities asked that the Council note that the Community had made a statement in relation to items 4 and 5 at the March Council meeting which was relevant to the matter at hand.

The Council took note of the statements and agreed to revert to this item at its next meeting.

3. European Economic Community - Import licences for dessert apples

The Chairman recalled that this matter had been raised at the 22 March Council meeting. It was on the Agenda of the present meeting at the request of Chile.

The representative of Chile said that consultations with the Community were currently taking place with regard to this matter. At this stage, therefore, he could only reserve Chile's rights under the General Agreement and might raise the matter again at the next Council meeting.

The representative of Hungary said that although his country had an interest in agricultural trade matters, it had not participated in the discussion on this issue before having more information about the nature and possible effect of the measure in question. Since the March Council meeting, his authorities had carefully examined the text of the Commission regulation no. 346/88. It seemed that not only southern hemisphere exporters but other third-country suppliers might be affected by the measure. Hungarian companies had already found that, due to the special nature of the product and of the manner of purchasing, the introduction of the so-called special surveillance mechanism was causing problems both for exporting and importing companies. His delegation was also concerned that this and similar measures might further increase difficulties for Hungary's agricultural exports to the Community. Therefore, Hungary supported Chile's position.

The representative of the European Communities said that Hungary's statement made it necessary to recall that the measure concerned did not affect trade flows. The automatic licences were indeed delivered within five days from the date of request and had been introduced solely for import surveillance purposes in order to allow the Community to assess the need to invoke the appropriate GATT provisions.

The Council took note of the statements and agreed to revert to this matter at an appropriate time.

4. Japan - Trade in semi-conductors
- Panel report (L/6309)

The Chairman recalled that at its meeting on 15 April 1987, the Council had established a Panel to examine the complaint by the European Economic Community. The Panel had concluded its work and its report (L/6309) had been circulated on 24 March 1988.

Mr. Falconer, a member of the Panel, introduced the report on behalf of Mr. Lacarte-Muró, Chairman of the Panel. He said that the Panel had had to organize a considerable amount of complex information and that the report was therefore unavoidably lengthy. He stressed that the Panel's findings and conclusions, and the reasons behind them, had been reached and adopted unanimously. However, the Panel's findings related only to the matters before it. Its terms of reference had not, for example, required a finding on the consistency of the bilateral arrangement between Japan and the United States with GATT provisions. The Community's recourse to Article XXIII had been directed against the measures taken by Japan in the context of the bilateral arrangement and not against the arrangement itself. The Panel accordingly had not addressed the question of the compatibility of the bilateral arrangement with the General Agreement. Furthermore, the Panel had been limited by its terms of reference to examine the consistency of Japan's measures with the existing provisions of the General Agreement, and had reached its conclusions in the light of those provisions.

The representative of the European Communities expressed the Community's appreciation for Japan's cooperation in supplying relevant information. The report was outstanding because of its very careful analysis of a complex factual situation and of the clarity of the conclusion. The Community was particularly satisfied with the evaluation of the third-country monitoring system which had been the core of the complaint. The Community would therefore favour adoption of the report and of the suggested recommendation.

The representative of Japan said that this report had been circulated only recently and contracting parties had not had sufficient time to examine it. As Japan would be consulting on the report with the Community and the United States in the coming days, it was not appropriate to have a thorough discussion at the present meeting. He suggested that the Council revert to this matter at its next meeting.

The representative of the United States said that on the basis of Japan's statement, his delegation would reserve its substantive comments for the next Council meeting.

The representative of the European Communities said that in light of statements indicating the need for more time to study the report, and given Japan's statement that it intended to consult with the Community, his delegation was looking forward to a fuller discussion of the report at the next Council meeting with a view to its adoption.

The representative of Switzerland said that his delegation was puzzled by Japan's statements concerning bilateral consultations. He stressed that the Panel report dealt with the incidence of certain measures on third countries. Therefore, whatever consultations took place, the GATT rights of countries not directly involved in the case should be fully preserved.

The Council took note of the statements and agreed to revert to this item at its next meeting.

5. Generalized System of Preferences - United States' removal of Chile from GSP scheme
- Recourse to Article XXII:1 by Chile (C/W/541, L/6298)

The Chairman recalled that this matter had first been raised by Chile at the February Council meeting and that Chile had requested that it be kept on the agenda. He drew attention to documents C/W/541 and L/6298 containing communications on this matter.

The representative of Chile said that consultations on this matter were not yet concluded. He reiterated that Chile reserved all its GATT rights, and said that Chile's earlier statements on this matter in the Council remained unchanged.

The Council took note of the statement.

6. Japan - Restrictions on imports of certain agricultural products
- Follow-up on the Panel report (L/6253)

The representative of the United States, speaking under "Other Business", asked Japan for a report on the status of its implementation of the recommendation in the Panel report, adopted by the Council on 2 February, on Japan's restrictions on imports of certain agricultural products (L/6253). He underlined the United States' continuing interest in this matter and its desire for an expeditious resolution.

The representative of Japan said that his country's position on the implementation of the report's recommendation had been stated in detail at the February Council meeting. His Government was currently deliberating on appropriate actions to be taken on the basis of that position.

The Council took note of the statements.