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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
29 January 1980

MINUTES OF MEETING

Held in the Centre William Rappard on 29 January 1980

Chairman: Mr. G.O. MARTINEZ (Argentina)

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The Chairman informed the Council of the death on 27 January 1980 of Sir Eric Wyndham White, former Director-General of GATT.

The Chairman recalled that as the architect of GATT, Sir Eric had been intimately associated with the negotiation of the General Agreement itself since 1946. He had established the GATT secretariat, and had led it for

twenty years. Bringing extraordinary powers of conciliation and imagination to the innumerable post-war negotiations in which the present structure of international trade co-operation and liberal trade policies had been hammered out, Sir Eric's personal contribution had on many occasions been crucial to their success, not least in the Kennedy Round negotiations which crowned his career. All were greatly in his debt.

On behalf of the Council, the Chairman expressed condolences to Sr. Eric's family. Representatives then rose; and the Council paid tribute to the memory of the late Sir Eric Wyndham White by observing one minute of silence.

1. Membership of the Council

The Chairman said that the Government of Zaire had requested membership of the Council.

On behalf of the Council, the Chairman welcomed the Government of Zaire as a new member of the Council.

2. Adjustment of specific duties (L/4858)

The Chairman recalled that at its meeting on 16 November 1979 the Council began its consideration of the Report of the Working Party on Specific Duties (L/4858). The Council had deferred further consideration of this matter until an early meeting in order to give representatives more time for reflection.

The representative of the European Communities said that the Report of the Working Party should be adopted, taking into account the remarks made at the Council meeting on 16 November 1979 (C/M/136).

The representative of Israel noted with satisfaction the contents of the Report. He called attention to the footnote on page 5 thereof concerning his Government's long-pending request with respect to the adjustment of specific duties (L/4639). His delegation expected that this request would now be approved without delay according to the new procedures. He also informed the Council that a further devaluation of the Israeli pound had taken place in the meantime, and said that his authorities would shortly submit a request in respect of these further changes, which they also expected to be approved according to the new procedures.

The representative of India noted that under the prevailing international monetary conditions, which were characterized by considerable exchange rate fluctuations, contracting parties had the right to adjust specific duties. While no single method of measuring a currency depreciation was satisfactory from all points of view, he believed that a measurement in terms of the currencies of the trading partners of the contracting party wishing to adjust its specific duties, was more appropriate than the other two methods

considered by the Working Party. He stated that the adjustment of specific duties as a result of a currency depreciation should not be undertaken in a rigid and mechanical manner, and that such adjustment should not lead to a net increase in the level of protection.

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

3. Balance-of-Payments Restrictions (BOP/R/108, 109, 110 and Add.1, C/W/335)

Mr. Lautenberg (Switzerland), speaking for Mr. Jagmetti (Switzerland), Chairman of the Committee on Balance-of-Payments Restrictions, introduced the reports on the consultations in the Committee which had taken place from 30 October to 9 November 1979.

(a) Consultation with Korea (BOP/R/109)

The full consultation with Korea requested in November 1978 had taken place on 31 October 1979. The Committee welcomed the substantial liberalization undertaken since 1976 and Korea's intention to pursue this course further. The Committee urged Korea to simplify further its still complex trade control system.

The Council adopted the report.

(b) Consultation with Tunisia (BOP/R/110 and Add.1)

The consultation with Tunisia had been held under Article XVIII:12(a). In its conclusions the Committee noted the progressive relaxation of restrictions and the favourable prospects for Tunisia's balance-of-payments.

The Council adopted the report.

(c) 1979 Consultations with Egypt, Indonesia, Peru and Sri Lanka (BOP/R/108)

The Committee had held four consultations under the simplified procedures. The Report contained the Committee's recommendations to the Council that Egypt, Indonesia, Peru and Sri Lanka be deemed to have consulted with the CONTRACTING PARTIES and to have fulfilled their obligations under Article XVIII:12(b). The Committee had been pleased to note that Indonesia had ceased to apply trade restrictions for balance-of-payments reasons which would have warranted further consultation.

The Council agreed that Egypt, Indonesia, Peru and Sri Lanka were deemed to have consulted with the CONTRACTING PARTIES and that they had fulfilled their obligations under Article XVIII:12(b).

(d) Consultations in 1980 (C/W/335)

The Council took note of document C/W/335 containing a note by the secretariat on the consultations to be carried out in 1980. The Council requested the secretariat to make the necessary arrangements in consultation with the countries concerned and with the International Monetary Fund for carrying out the consultations in the course of the year.

4. Agreement between Finland and Hungary (L/4878)

The Chairman drew attention to document L/4878 containing information on developments under the Agreement between Finland and Hungary on the Reciprocal Removal of Obstacles to Trade, furnished by the parties to the Agreement.

The Council took note of the report.

5. Agreements between the European Communities and Israel (L/4886)

The Chairman drew attention to document L/4886 containing information on developments under the Agreements between the European Communities and Israel, furnished by the parties to the Agreements.

The Council took note of the report.

6. Agreement between the EFTA countries and Spain (L/4867 and Add.1)

The Chairman recalled that at the July 1979 meeting of the Council, the representative of Iceland, speaking as Chairman of the Joint Council of the European Free-Trade Association, informed the Council that a free-trade agreement had been concluded between the EFTA countries and Spain in June 1979. Subsequently, copies of the text of the Agreement had been circulated to contracting parties with document L/4867/Add.1.

The representative of Sweden, the depositary Government of the Agreement, said on behalf of the EFTA countries and Spain that the ratification procedures were under way and that the Agreement would enter into force shortly. He pointed out that the objective of the Agreement was to abolish all tariffs and other restrictions on substantially all the trade between the EFTA countries and Spain in products originating in the countries concerned. As a first step, the EFTA countries would reduce their import duties on almost all industrial products by 60 per cent in one step. On a few sensitive items the reduction would be either 30 or 40 per cent. At the same time Spain would reduce its duties on a number of industrial products imported from the EFTA countries by 60 per cent and on other industrial products by 25 per cent. There were special provisions for the trade relations between Portugal and Spain.

He pointed out that the Agreement spelled out a clear commitment of the signatory states to the goal of free trade. There would be an annual review of the possibility of taking further steps to liberalize trade. A comprehensive examination of the possibility of making substantial progress towards the elimination of the remaining obstacles to trade would take place before the end of 1982. It was understood that upon Spanish accession to the European Economic Community, the Agreement would lapse and be superseded by the Free-Trade Agreements in force between the EFTA countries and the EEC.

He said that the special provisions governing trade between Portugal and Spain took account of the fact that Spain's industry was larger and more varied than Portugal's. During a first phase, lasting four years, Portugal would, in most cases, reduce its tariffs on imports from Spain less sharply than the other EFTA countries, whereas Spain would give Portugal greater tariff reductions than those granted to other EFTA countries. A second phase would lead to the elimination of all obstacles to trade. The rates from which the negotiated tariff cuts would be made by the EFTA countries were the most-favoured-nation (m.f.n.) rates in force in the individual EFTA countries on 1 January 1978 on their imports from third countries. For products on which tariff cuts would result from the Tokyo Round, however, the lower rates would be the basis from which the EFTA countries would make reductions under the EFTA-Spain Agreement. Spain would base its tariff cuts on the customs duties it applied at any given time. The Agreement also contained a general prohibition of quantitative restrictions on imports. Certain exceptions to this general rule were permitted; but the Agreement provided for their progressive elimination. The Agreement furthermore contained provisions intended to secure fair competition.

He explained that a Joint Committee, consisting of one representative of each party to the Agreement, would supervise the implementation of the Agreement and would serve as a forum for consultations. In respect of trade in agricultural products, the concessions by both sides were contained in separate bilateral agricultural agreements between Spain on the one hand and Austria, Finland, Norway, Portugal, Sweden and Switzerland on the other. The parties to the Agreement were prepared to follow the usual GATT procedure for an examination of this type of agreement.

The Council agreed to establish a working party for the examination of the Agreement with the following terms of reference and membership:

Terms of reference:

To examine, in the light of the relevant provisions of the General Agreement, the Agreement between the EFTA countries and Spain, concluded on 26 June 1979, and to report to the Council.

Membership:

The membership would be open to all contracting parties indicating their wish to serve on the working party.

The Council authorized the Chair to nominate the Chairman of the Working Party in consultation with the delegations principally concerned.

The Council also agreed that contracting parties wishing to submit questions in writing to the parties to the Agreement would be invited to send these to the secretariat by 14 March 1980 at the latest, and that the answers to the questions should be supplied by the parties within six weeks after their receipt of the questions.

7. Spain - Measures concerning the domestic sale of soyabean oil - recourse by the United States (L/4859)

The Chairman recalled that at its meeting on 16 November 1979 the Council had considered a complaint by the United States relating to Spanish measures concerning the domestic sale of soyabean oil. The Council had urged the two parties to pursue their bilateral consultations under Article XXIII:1, and had agreed to revert to the matter at its first meeting in 1980.

He said that further consultations between the two delegations had resulted in their joint request that the matter be referred to a panel.

The Council agreed to establish a panel with the following terms of reference.

To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the United States, relating to Spain's measures concerning domestic sales of soyabean oil (L/4859), and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings, as provided in Article XXIII.

The Council authorized its Chairman to nominate the Chairman and the members of the panel in consultation with the two parties concerned.

8. Spain - Tariff treatment of unroasted coffee (L/4832)

The Chairman recalled that the question of Spain's tariff treatment of unroasted coffee had been raised at the meetings of the Council on 6 and 16 November 1979. It had been put on the Agenda of the present meeting at the request of Brazil.

The representative of Brazil said that a new Spanish law had introduced certain modifications in the tariff treatment applied to imports of unwashed Robusta and Arabica coffee. This coffee was now subject to a less-favourable tariff treatment than that accorded to other types of coffee. Prior to this new law there had been no differentiation in the tariff treatment applied by Spain to imports of unroasted coffee. As the principal supplier of coffee to

Spain, Brazil was concerned with the discriminatory character of the new tariff rates. He recalled that Brazil had requested Article XXII:1 consultations with Spain (L/4832), but thus far had received no reply in respect of this request. Although some consultations had taken place in Madrid with a special Brazilian delegation on 5 and 6 November 1979, during which this question was raised, his authorities did not consider this discussion to have been a consultation under any Article of the GATT. As no further developments had taken place, his authorities were considering recourse to the provisions of Article XXIII:2. He would inform the Council at a future meeting of the final decision taken by his authorities in this respect.

The representative of Spain said that his authorities had decided to change the State-trading system concerning the imports of coffee to a more liberal import system. This change would enter into force on 1 March 1980. He pointed out that his authorities had indicated in August 1979 their intention to apply, under the new system, new rates of duty on coffee which, he stressed, were not bound under the GATT. At the request of the Brazilian delegation the two countries had had various bilateral contacts, which his authorities wished to continue in order to analyze the consequences these measures would have upon trade between both countries, and so as to overcome any difficulties.

The Council took note of the statements.

9. EEC - Refunds on exports of sugar - recourse by Australia (L/4833)

The Chairman recalled that at its meeting of 6 November 1979 the Council had adopted the Report of the Panel (L/4833) which had been established to examine a complaint by Australia concerning refunds on exports of sugar by the EEC. The Council had agreed to revert to this matter at an early meeting.

The representative of Australia said that upon its adoption, the Report of the Panel had become the considered view of the CONTRACTING PARTIES. It was therefore an important step towards a satisfactory conclusion of this matter, not only for Australia but for all sugar exporting countries, as was demonstrated in a resolution adopted by the International Sugar Council on the Panel's report on 19 November 1979. He said that it was also an important step in demonstrating the willingness of the CONTRACTING PARTIES to take effective action on export subsidies on agricultural products. He recalled that the Panel had found that the Community system of export refunds on sugar and its application had caused a significant increase in EEC sugar exports, had contributed to depressed world sugar prices in recent years, thereby causing serious prejudice to Australia, and that the system did not comprise any pre-established effective limitations in respect of either production, price, or the amounts of export refunds and constituted a permanent source of uncertainty in world sugar markets. It constituted therefore a threat of prejudice in terms of Article XVI:1.

He stated that following the adoption of the report by the CONTRACTING PARTIES, the EEC was required to take stock of the system and its harmful effects on world trade in order to determine what action it would take to remove the prejudice and threat of prejudice it had been found to cause. He said that he had been encouraged by the assurance of the representative of the European Communities at the meeting of the Council of 6 November 1979 that all possible measures that could be taken by the EEC would be implemented and that certain measures had already been taken.

He pointed out that since the EEC had been found by the Panel to be in breach of Article XVI:1 the CONTRACTING PARTIES were entitled to ask the EEC what action it intended to take and in what time frame it would remove the prejudice and threat of prejudice to Australia and other sugar exporting countries. He said that this question was also of direct relevance to the current consideration by the EEC of a revised sugar régime for the next five years. His delegation had placed this item on the agenda of the Council simply to alert the Council that Australia intended to take up the Report of the Panel and the question of follow-up action at the next meeting of the Council.

The representative of Argentina said that his country was an important exporter of sugar and shared the concern of other countries on how to solve the problems created by the sugar export refund system of the EEC. He expressed the hope that there would be a reaction from the EEC in respect of this problem in the near future.

The representative of Brazil said that his country, as an important exporter of sugar, was also concerned about the EEC policies in respect of sugar. He pointed out that the Panel Report recognized the damaging effects of the sugar export subsidy system in question. He recalled that his delegation was in the process of pursuing a similar case. He stressed that the Panel Report under consideration had been adopted by the Council, and that the Council now had to take action on the matter.

The representative of the European Communities stated that there were no facts and figures to show that the sugar policy of the EEC caused harm to the world sugar market. He wondered whether it was appropriate to call the EEC policy into question at a time when sugar prices were increasing. He said that the members of the Panel had been aware that the matter was a very delicate one. The conclusions of the Panel were delicately balanced; accordingly, his delegation considered it inappropriate to extract some elements from the conclusions in an effort to prove the EEC wrong. He recalled that the Report of the Panel had been adopted in the light of the statements made by his and other delegations at the 6 November 1979 meeting of the Council. He added that the Panel had not been able to recognize any damage done by the EEC's sugar policy to Australia because that country had not supplied any pertinent and concrete element. The EEC could not accept countenance its intentions being questioned. He stated that the EEC was ready to engage in

discussions and consultations, but only on the basis of precise, quantifiable and quantified data. He stressed that the EEC was always of the opinion that in respect of the present sugar situation in the world, there was no reason to believe that the export refund system of the EEC had resulted in any depressive effect on the world sugar market over the past months. The EEC also considered that in the months ahead there was no risk that the EEC exports of sugar would contribute to a downward trend in the world sugar market. Accordingly, he considered it unwise and unacceptable to discuss the EEC sugar policy when the present organization of marketing in this sector was expiring and when the new organization had not yet been decided upon.

The Council took note of the statements made and agreed that this item should appear on the agenda of a future meeting of the Council.

The representative of Australia agreed with the course of action as stated.

10. Indonesia - Renegotiation of Schedule (L/4921, C/W/336)

The representative of Indonesia referred to document L/4921 in which his authorities submitted a request for an extension of the time limit for the completion of the renegotiations in respect of Schedule XXI, which had expired on 31 December 1979. He stated that Indonesia expected to resume the renegotiations by the middle of 1980 and would do its utmost to expedite this matter. He requested the Council to approve an extension of the time limit as set out in the draft decision.

The representative of Japan, in supporting the extension of the time limit, said that his delegation had taken note that Indonesia would resume the consultations. He expressed the hope that the negotiations would be pursued expeditiously.

The representative of Australia supported the extension of the time limit.

The Council approved the text of the draft decision, as contained in document C/W/336, and recommended that the decision be adopted by the CONTRACTING PARTIES by postal ballot.

11. Tariff matters

(a) Committee on Tariff Concessions

The Chairman recalled that the GATT Work Programme (L/4484/Add.1, Annex VI), adopted by the CONTRACTING PARTIES at their Thirty-Fifth Session in November 1979 (SR.35/5, page 77), provided for the establishment of a Committee on Tariff Concessions.

The Council agreed to establish the Committee on Tariff Concessions with a mandate to supervise the task of keeping the GATT schedules up to date, supervise the staging of tariff reductions, and provide a forum for discussion of questions relating to tariffs. The Committee would report periodically to the Council. As regards its membership, the Committee would be open to all contracting parties indicating their wish to serve on the Committee. The Council authorized its Chairman to nominate the chairman and vice-chairman in consultation with interested delegations.

(b) Introduction of a loose-leaf system for the schedules of tariff concessions (L/4821 and Adds. 1 and 2, C/107)

The Chairman drew attention to documents L/4821 and Addenda 1 and 2, containing a Note by the secretariat concerning the establishment of a loose-leaf system for the schedules of tariff concessions. The Note described the existing system and the problems which had been encountered in this regard, and it set forth a possible solution in the form of the loose-leaf system proposed. The Chairman recalled in this connexion that the CONTRACTING PARTIES had given their approval of the financial consequences for the introduction of such a system in adopting the Budget proposals for 1980. He said that on the basis of informal consultations among several delegations, the Director-General had prepared a formal proposal on the introduction of a loose-leaf system, which was before the Council in document C/107. The proposal contained the text of a draft decision which was to replace the Decision on the certification of changes to schedules, adopted by the CONTRACTING PARTIES in November 1968.[1/] Furthermore, in the introductory paragraph the proposal contained certain suggestions of a procedural nature on which a decision of the Council was sought.

The representative of the United States welcomed the proposal for setting up a loose-leaf system of tariff concessions, since it had become increasingly difficult after each round of tariff negotiations to trace concessions and to keep an up-to-date record of bound rates. He noted that many countries, including the United States, maintained loose-leaf systems for their customs tariffs. He said that the United States fully supported the proposal to set up such a system now that the Tokyo Round had been completed, and urged other delegations to do likewise.

The representative of Norway also welcomed the introduction of a loose-leaf system and expressed readiness to join a consensus on the draft decision. He stated, however, that his authorities were still in the process of considering the proposal as regards the national customs tariff, the recording of previous initial negotiating rights and certain problems of a technical nature that might arise. His delegation would revert to this matter in the appropriate GATT bodies.

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The representative of New Zealand said that his authorities had no objection to the proposed system, but nevertheless faced some problems, in particular with the alignment of the national customs tariff. Accordingly, his delegation would be unable to join in a consensus on the proposal at this Council meeting.

The representative of Canada said that his delegation agreed in principle to the introduction of a loose-leaf system for the schedules of tariff concessions. His authorities were, however, still in the process of working out the details of the proposal. He said that his delegation could agree at this meeting to the consolidation of tariff schedules in loose-leaf form, on the understanding that any technical details would be worked out in the appropriate GATT body, such as the Committee on Tariff Consessions.

The representative of Australia, while supporting the objectives of the proposed system, said that his authorities were also faced with certain legal problems at this stage. His delegation reserved its position as to the nature of the material to be put on the schedules, and the requirement to amend such material to reflect all tariff changes.

The representative of the United States said, in respect of the proposal made by Canada, that the Committee on Tariff Concessions should be charged with working out the technical details and that this should be done in accordance with the principle contained in paragraph 8 of document C/107. After a certain period of time the loose-leaf system should become the sole legal source for negotiated tariff concessions.

The Chairman said that although there appeared to be general support for the proposed loose-leaf system, some technical problems remained. He asked whether representatives were ready to adopt the draft decision annexed to document C/107 at this meeting, and direct that the Committee on Tariff Concessions examine the technical problems that had been mentioned.

The representative of Australia said that his Government faced problems of a legal nature which would prevent it from being bound to a final solution within a given time period.

The representative of New Zealand said that not all of the problems faced by his authorities were of a technical nature, and asked the Council to postpone a decision on the matter to its next meeting. He said that in the meantime consultations could take place among delegations.

The Council agreed to postpone a decision on this matter until its next meeting, and urged delegations in the meantime to clarify any problems through consultations.

12. Exchange rate problems (C/108, C/W/337)

The Chairman drew attention to document C/W/337, which contained a note by the Director-General on exchange rate problems in relation to pensions, a question which the Council had considered one year earlier.

The Director-General recalled that at its meeting on 22 December 1978 the Council had examined the report of the Informal Contact Group set up to study the adverse effects of currency fluctuations on the take-home-pay and pensions of the GATT staff. As a result of its examination, the Council had adopted a Decision providing for the transfer to a special and temporary account of the surpluses resulting from the depreciation of the United States dollar with relation to the accounting rate used in preparing the 1978 and 1979 budgets (C/104). He said that when the Council took its decision, it had been expected that the thirty-fourth session of the General Assembly of the United Nations would adopt proposals at the end of 1979 to correct the distortions that had arisen in the United Nations pension system as a result of the current economic and monetary situation. The Council was to reconsider this matter, in so far as necessary, in the light of these proposals. The General Assembly had not, however, adopted any such proposals, and had referred the matter again to the International Civil Service Commission and to the United Nations Joint Staff Pension Board so that proposals could be submitted to the thirty-fifth session of the General Assembly, to take place at the end of 1980.

He recalled that he had spoken on the subject of the erosion of pensions with increasing vigour over the last few years, and emphasized that his earlier statements unfortunately continued to be true. He proposed, therefore, that the Council defer further consideration of this matter until such time as the results of the thirty-fifth session of the General Assembly were known. He further proposed that the special and temporary account be maintained until the Council took a decision in this regard, and that the Council decision of 1978 concerning the 1979 surplus mentioned above be extended to cover any surplus of a similar nature that might occur in 1980.

The Council agreed to defer its further consideration of this matter until the results of the thirty-fifth session of the General Assembly were known, and in the meantime to maintain the temporary and special account until the Council took a decision in regard to this matter. The Council agreed further that the Decision relating to the 1979 surplus (C/104) would also extend to any such surpluses that might occur during 1980.

13. United States - Prohibition of imports of tuna and tuna products from Canada (L/4931)

The representative of Canada, speaking under Other Business, drew attention to document L/4931, in which Canada reported that on 31 August 1979 the Government of the United States had prohibited imports of tuna and tuna products from Canada. As indicated in that document, Canada requested the establishment of a panel pursuant to Article XXIII:2. He said that following

written representations by Canada, consultations had been held between the two countries but had not resulted in a satisfactory resolution of the matter. He expressed the hope that the matter could be resolved satisfactorily before the next meeting of the GATT Council. If such were not the case, however, he expressed the hope that the Council would be prepared at its next meeting to establish a panel to examine the matter.

The representative of Peru said that as an important exporter of tuna, his country wanted to be informed on any developments in this matter. His delegation supported the proposal made by Canada.

The Council took note of the statements.

14. EEC - Restrictions on imports of apples from Chile

The Chairman recalled that at its meeting on 25 July 1979 the Council had agreed to establish a panel to examine the complaint by Chile, and that after having agreed on terms of reference for the Panel at its meeting on 6 November 1979, it had authorized the Chair to nominate the Chairman and members of the Panel, in consultation with the two parties concerned.

He informed the Council that the Panel would have the following composition:

Chairman: Dr. El Gowhari (Egypt)

Members: Mr. Lemmel (Sweden)
Mr. Wright (Canada)

The Council took note of the composition of the Panel.

15. Framework Texts

The representative of Australia, speaking under Other Business, recalled that at the Thirty-Fifth Session of the CONTRACTING PARTIES and at previous Council meetings Australia had not been in a position to comment on, or to support a consensus on the Framework Texts that had resulted from the Multilateral Trade Negotiations (L/4884/Add.1, Annex III and L/4885). His delegation was now in a position to inform the Council that Australia could associate itself with points 1, 2, 3 and 4 of the Texts. In relation to the export restrictions and charges under point 5, he said that Australia's position remained the same as recorded in MTN/FR/W/22, the Council minutes C/M/136 and in the Summary Records of the Thirty-Fifth Session.

The Council took note of the statement.