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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
28 February 1984

MINUTES OF MEETING

Held in the Centre William Rappard on 28 February 1984

Chairman: Mr. F. Jaramillo (Colombia)

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1. Agreements between the EEC and Austria (L/5611), Finland (L/5612), Iceland (L/5613), Norway (L/5614), Portugal (L/5615), Sweden (L/5616) and Switzerland (L/5617)
- Biennial reports

The Chairman drew the Council's attention to documents L/5611 through L/5617, containing information given by the parties to the Agreements between the European Economic Community and the member States of EFTA and FINEFTA.

The representative of Chile said that his delegation wanted further information on the seven Agreements, as they covered more than 90 per cent of trade between the EEC and each of the countries concerned, except for the Agreement with Portugal, where no such information had been given. The reports stated that there were no quantitative restrictions on imports of the products covered by the Agreements, with a few

exceptions. Chile wanted to know whether, in respect of the products on which there were no quantitative restrictions, there were nevertheless similar measures in force affecting trade with third countries. His delegation had also noted that the value of trade covered by the Agreements had increased between 1981 and 1982, and he asked for additional information that would indicate for each of the countries or groups of countries how its share of the market of the other party had developed in the past five years; the information should also indicate the trend in the share of developing countries in the same markets. He asked that consideration of this item be deferred until the necessary background information was available.

The representative of Sweden said that the information requested by the representative of Chile would be available at the next Council meeting.

The Council took note of the reports (L/5611 through L/5617) and of the statements, and agreed to revert to this item at its next meeting.

2. United States - Article XIX action on imports of certain specialty steels
   - Request by the United States for disapproval of compensatory measures notified by the European Economic Community (L/5524/Adds.15, 21 and 22 and Corr.1).

The Chairman recalled that on 7 February 1984, the Council had examined a notification of compensatory measures by the European Economic Community (L/5524/Add.15) related to Article XIX action by the United States on imports of certain specialty steels. The Council had taken note of statements by representatives and that consultations were continuing. The Council now had before it a request by the United States (L/5524/Add.21) for disapproval of the measures notified by the Community. The United States had also provided additional information concerning this matter in document L/5524/Add.22 and Corr.1.

The representative of the United States said that his delegation was not questioning the Community's right under Article XIX to suspend substantially equivalent concessions as retaliation for the US safeguard action on specialty steel. However, the United States had believed that the action notified by the Community would exceed the level which could be considered "substantially equivalent" to the US action, and that therefore, the CONTRACTING PARTIES should disapprove of the Community's proposal unless it was modified to conform with the criteria of Article XIX. The United States had tried to ensure that there was transparency in its own measures and that its safeguard action was proportionate to the injury that the US industry was found to have suffered. It was equally important for the integrity of the safeguard process that any retaliatory action did not exceed the effect of the US measures; and the question of the quality of responsive measures to safeguard actions should be a matter of concern for the Council. The

United States reserved its right to bring before the Council any retaliatory action that it considered to be excessive. He informed the Council that following high-level consultations between the United States and the Community, US concerns with regard to procedural issues concerning this matter had been resolved. With goodwill on both sides, it seemed probable that the intent of the Article XIX safeguard process would be achieved, both in terms of the measures taken by the importing country and of those taken in response. His delegation believed that in these circumstances, the proper action for the two parties concerned would be to advise the Council Chairman from time to time on any further developments. Consequently, the United States was not requesting at this meeting that the Council disapprove of the suspensions notified by the Community, but reserved its rights in this matter should circumstances change.

The representative of the European Communities recalled his statement to the Council on 7 February that the Community's decision to implement its measures on 1 March was irrevocable, but that their scope could be adjusted, and that consultations were continuing, with the two parties showing goodwill in trying to find a satisfactory solution. He agreed with the conclusion reached by the representative of the United States, and recalled his own observation made to the Council on 7 February that in this case the two parties had followed GATT procedures in an exemplary way.

The Council took note of the statements.

3. Status of work in panels
- Report by the Director-General (C/124)

The Director-General drew attention to document C/124 containing information on the current status of work in panels. He recalled that in 1982 the CONTRACTING PARTIES had given the secretariat the responsibility of assisting the panels on the legal, historical and procedural aspects of matters before them (BISD 29S/14). Steps had been taken to enable the secretariat to fulfill that mandate, and these arrangements should contribute to coherence in the work carried out by panels and, where necessary, to an improvement of panel procedures.

He then turned to three longstanding problems, all of which tended to prolong the time taken between the decision to establish a panel and adoption of its report. First, there was still considerable difficulty and much time lost in agreeing on membership of panels; and sometimes the individuals chosen were unavailable. He appealed to parties engaged in disputes subject to panel procedures to co-operate in the process of constituting panels, and for delegations to be as forthcoming as possible in responding to requests for members to serve on panels. Second, if certain panels had not been able to follow a "normal" work program, in most cases this was because parties to disputes had been unable to observe agreed deadlines for presenting their positions and communicating

the necessary information. Third, the adoption of reports tended to be a lengthy process, being postponed from one meeting of the Council or relevant Committee to another. Similarly, while recognizing considerable differences according to the case concerned, the Council would no doubt admit that panel recommendations took too much time to be translated into action.

He added that Ministers had agreed in 1982 that the Council would periodically review the action taken pursuant to panel recommendations; perhaps the Council should consider this topic at its special meetings to review developments in the trading system. He concluded by emphasizing once more the need to respect the rules of discretion and confidentiality in the delicate area of dispute settlement.

In reply to a question by the representative of Jamaica, the Director-General confirmed that the Council Chairman would continue to announce the terms of reference and composition of a panel once these were agreed, and said that in future whenever a panel was constituted, a communication would be sent to all contracting parties to this effect. He proposed that for the sake of transparency, the Council should also be informed of the composition of panels established by MTN Committees and Councils.

The representative of Egypt reiterated the concern that he had expressed at the 39th Session concerning the increasing number of disputes brought to GATT for settlement in recent years. A possible spiral of retaliation could threaten the harmonious development of trade relations among contracting parties. He stressed the need to make GATT's multilateral conciliatory rôle more effective.

The representative of the United States said his delegation found the Director-General's statement on the status of work in panels to be timely, considering that the United States expected four panel reports to be on the agenda for the next Council meeting, and that three others would be considered in MTN Committee meetings in April and May. His delegation agreed that the dispute settlement process was not working as effectively as it should, and he recalled the 1982 Ministerial Declaration which said that "obstruction in the process of dispute settlement shall be avoided" (BISD 29S/16). An effective dispute settlement process was fundamental to the operation of the GATT and of the MTN agreements; but if that process was to have any meaning, parties to disputes had to accept panel findings and conclusions, and panel reports had to be adopted in cases where bilateral solutions could not be reached. The reports of two panels mentioned in document C/124 were being blocked in MTN Committees by one of the parties to those disputes. As a contracting party which placed great emphasis both internationally and domestically on the need for an effective dispute settlement process, the United States urged contracting parties to respect that process, and to support the work of panel members because this played a significant rôle in furthering the objective of trade liberalization.

The representative of Sweden, on behalf of the Nordic countries, stressed their full support for the views expressed by the Director-General. They were ready to assist him to the best of their ability on this particular problem.

The representative of the European Communities supported the views expressed by the representative of Egypt on the importance of conciliation. Moreover, if the dispute settlement process had been held up from time to time, perhaps the origin of those blockages should be examined in depth. Certain panels had tended to interpret or create new obligations which did not exist in the MTN Agreements or in the General Agreement.

The Council took note of the information in document C/124, and of the statements by the Director-General and representatives.

4. European Economic Community - Imports of newsprint from Canada

The representative of Canada, speaking under "Other Business", said that Article XXIII:1 consultations between Canada and the European Economic Community concerning the EEC's reduction of its bound duty-free quota for newsprint had failed to produce a satisfactory solution. Canada would therefore ask the Council at its meeting on 13 March to establish a panel to investigate this matter and make appropriate recommendations.

The Council took note of the statement.

5. Protectionism

The representative of the United States said that his authorities considered recent comments on alleged protectionist forces in the United States to be exaggerated. In 1983, the United States had a trade deficit of US$69.4 billion, and by all estimates this would rise in 1984 to more than US$100 billion, which would be the largest imbalance in the history of international trade. Also, US imports were growing at nearly double the rate of growth of gross domestic product; if that ratio was sustained for the rest of 1984, which seemed likely, it was difficult to see how the United States could be accused of being protectionist. His Government had decided in 1983 to encourage import growth, not only because this would benefit the US economy in its battle against inflation, but also because it would benefit those exporting countries which were in a recession, or coming out of a recession, or which were carrying large external deficits. This policy remained in force. Any country should feel free to criticise the United States once it sustained the same level of trade imbalance, but until then, he suggested that commentators look to criticise elsewhere.

The representative of the European Communities said that the problems of rich countries paled in comparison to those faced by poorer nations. However, if the United States had to confront such large deficits, maybe remedies other than trade restrictive measures could be sought to correct the imbalance. In any case, his remarks on this point to the Council on 7 February 1984 had not been intended as a criticism of the United States; he had said that the United States was a great trading power and should therefore act responsibly and lead a crusade against protectionism, helping others to follow suit. This had been an appeal and not a criticism.

The representative of Jamaica reiterated his remarks at the 7 February Council meeting concerning the relationship between structural adjustment, trade liberalization and the recourse to safeguard measures. He referred to a speech in London on 20 February in which the Director-General had said that "the three great powers have also been heavily involved in the very disturbing increase in the bilateral negotiation of export restraints, which in one sector after another are producing a trend towards market sharing and cartelisation" (GATT/1355, paragraph 11). The problem of steel, for example, was not merely whether there was equivalence of response by the Community to US safeguard measures; the problem was whether there was damage to the GATT system. The CONTRACTING PARTIES were fortunate that the Community and the United States had not started down the long road to a trade war, because in any such escalation the trading system as a whole, and the developing countries, would be among the first victims. Jamaica was concerned that GATT, by talking about retaliation and the varying nature of safeguard measures, rather than tackling their underlying causes, was appearing not to take its responsibility for dealing with major problems in the trading system. Steel was a good case in point, because there had been a long history of government protection and regulation in the steel industries of the industrialized countries.

The representative of Pakistan said that his delegation appreciated assurances that the United States was resisting protectionism, but felt that these were ceasing to have the value that they had two years ago. His statement on behalf of textile exporting countries at the Council meeting on 7 February reflected genuine concerns, and was not inspired by any wish to single out the United States for being more protectionist than others. However, he understood that sixty calls for consultations under the Arrangement Regarding International Trade in Textiles (BISD 21S/3) had been issued by the United States; this made it hard to maintain that the system was intact. A development of that magnitude was serious and called for remedial action.

The Council took note of the statements.

6. Australia/New Zealand Closer Economic Relations Trade Agreement (ANZCERT)

The Chairman recalled that on 20 April 1983, the Council had established a working party to examine this Agreement and had authorized the Chairman of the Council to designate the Chairman of the Working Party in consultation with the delegations principally concerned.

He informed the Council that following such consultation, Mr. Nogueira Batista (Brazil) had been designated Chairman of the Working Party.

7. United States - Caribbean Basin Economic Recovery Act

The Chairman recalled that at their thirty-ninth session in November 1983, the CONTRACTING PARTIES had established a working party to examine the United States request for a waiver under Article XXV:5 (SR.39/1, page 10) concerning this Act, and had agreed that the Chairman of the Council should designate the Chairman of the Working Party in consultation with delegations.

He informed the Council that following such consultation, Mr. Chiba (Japan) had been designated Chairman of the Working Party.