

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPORT OF COMMITTEE II ON THE CONSULTATION WITH THE UNITED STATES OF AMERICA

1. In accordance with the Decision of the CONTRACTING PARTIES of 7 December 1961, inviting GATT Member countries to notify any substantial changes in their agricultural policy and authorizing Committee II to carry out consultations with the contracting parties concerned, the United States Government submitted the text of a Law (Public Law 88-482) providing for the possible imposition of quotas on certain meats, that is, fresh, chilled or frozen beef and veal, goats and sheep (except lambs).
2. The consultation was held on 8 February 1965. The Committee had before it document COM.II/136, containing the relevant part of the above-mentioned Act, enacted on 22 August 1964. It also had before it document COM.II/136/Add.1, communicated by the United States Government.
3. In introducing the provisions of Public Law 88-482 the representative of the United States said that the essence of his statement consisted of document COM.II/136/Add.1, annexed to this report. In explaining the background of the Law, he pointed out that as the leading agricultural exporter, and one of the largest importers, the United States considered it essential to orient its policy towards a significant expansion of world trade in both the agricultural and industrial fields. It hoped to pursue this policy through GATT and, in particular, through the Kennedy Round. It was clear from this context that any legislation that might lead to a restriction of trade had been undertaken by his Government only with the greatest reluctance. There were substantial reasons for the legislation under review: in the course of a few years the United States had changed from a position of marginal importer of beef and veal to being the largest importer. While domestic production had risen substantially, imports had grown at a far higher rate. There had been a sharp fall in domestic cattle prices as from 1962. This had created serious problems for the livestock industry, an important sector of the economy. While no single cause could be given for these developments, imports were certainly a contributing factor, and the threat of a further rapid growth in imports had led to the introduction of the Law under

discussion. He wished to point out, however, that the Law did not in itself impose import quotas, but only provided for an introduction of quotas should certain contingencies arise. Even in the event that quotas were introduced, they would be liberal; under the provisions the import quantities permitted would about equal quantities imported in 1962, the second highest imports on record. Not only did the Law not drastically reduce present high levels, but it allowed for their growth at the same rate as the growth in domestic production. He added that there was also a provision for the suspension, or increase, of quotas should they be imposed under the legislation. One circumstance could be the conclusion of an international agreement which accorded with the requirements of the legislation. The conclusion of a world-wide arrangement on meat as a result of the negotiations carried out in the Group on Meat could eliminate the need for the application of quotas on condition that it led to reasonable access to world markets thereby reducing the pressure in the United States. He stated that he would not consider the present consultations as closed until the effects of the legislation, if it ever became operational, could be examined.

4. Various members of the Committee stressed their interest in the United States meat market. They expressed their concern that a restrictive legislation should be introduced at a time when most trading nations were preparing for broad liberalization of trade, and when discussions in the GATT Meat Group were already under way. They felt, moreover, that the legislation contained, for meat exporters, serious elements of unpredictability, both in respect of their short-term commercial considerations, and their longer-term developmental considerations. Outside suppliers, in particular those whose production season fell into the latter part of the calendar year, would be faced with particular problems, through the threat and uncertainty of quotas which could be introduced at various times of the year on the basis of estimated imports. While imports were only one of many factors in the downward movement of prices in the United States, the legislation was predominantly directed at imports. Moreover, the exports of some countries consisted of manufacturing beef which did not impinge directly on the market in prime beef. Various members expressed their appreciation of the readiness of the United States Government to continue present discussions in this Committee if the legislation became operative.

5. The representative of the United States replied that he would transmit the concern of various members of the Committee to his Government which had, however, already consulted on this problem with a number of their countries. He said that the burden in correcting the situation in his country was by no means placed entirely on outside suppliers; an indication of this was the growth factor for imports included in the legislation itself. Furthermore, in its efforts to correct the situation in the beef sector, his Government was not confining its action to imports but used other instruments, available internally, such as programmes to encourage beef consumption in the United States, and Government purchase programmes to provide surplus beef for school lunches and needy families.

6. A member of the Committee asked to which previously established legislation, if any, Public Law 88-482 attached itself. The representative of the United States replied that no previous legislation as regards meat imports existed. It was also asked whether the United States Government considered this legislation to be in accordance with the provisions of the General Agreement. The representative of the United States was of the opinion that the problem did not arise unless and until the Law became applicable. He added that it did not appear that quotas would be applied in the foreseeable future. The Committee agreed that such a question fell outside its terms of reference.

7. Certain members of the Committee noted that under the provisions of the legislation quotas would be based on the quantity of imports during a previous representative period, and pointed out that if due to obstacles such as sanitary regulations, no imports had entered the United States from these countries, there would be no basis for an allocation once these obstacles were removed or overcome. The representative of the United States replied that the legislation took account not only of past patterns of imports, but also permitted account to be taken of special factors which had affected, or might affect, trade in the product in question. Efficient meat exporters who were potential suppliers to the United States market, but who had previously been excluded from the market, could thus have an opportunity to participate. Apart from that case it was envisaged that other elements might be included among the special factors which could also be taken into account with a view to modifying the quotas allocated to other countries - for example, a drought affecting livestock in an exporting country, or transport difficulties which might have hampered exports in the base period. In reply to another question, the representative of the United States stated that although a global quota provided some flexibility for individual suppliers, he considered that an allocative quota was fairer to distant suppliers; since foreign suppliers were in constant consultation with the United States, one could be assured that any allocation of quotas among suppliers would not be unfair.

8. In answer to a question concerning the reference periods selected for the estimation of domestic production and imports, the representative of the United States stated that the important points were (a) that the same period - 1959 through 1963 - was used as the base period for both domestic production and imports, and (b) that the growth in domestic production over the base period was applied proportionately to imports. The five-year base period of 1959-63 was the one that emerged from the parliamentary actions that resulted in the compromise Bill eventually enacted as Public Law 88-482. Other periods less favourable to imports had been proposed in other Bills. Furthermore, instead of the three-year moving average used to calculate the growth in domestic production above the base period, a five-year average could have been used here too, but this would have produced a smaller growth factor.

9. A member of the Committee pointed out that the imports the legislation was aiming to restrict were not necessarily the same in type or quality as the domestic production whose price situation it was trying to remedy, and therefore doubted whether it would achieve the desired results. In replying, the representative of the United States observed that different types of meat competed with one another, although to a degree that varied as between types and was not easy to establish. The implementation of the provisions of the legislation would therefore be actuated by changes in the total import quantities and not by price movements, so that the price relationships between domestically produced and imported meats were not relevant to the mechanics of implementing the legislation. The assumption was that a change in the total volume of supplies would affect prices, including those of domestically produced meat. This was also reflected in the legislation, which gave the President authority to suspend the application of quotas or to increase their levels if prices in the United States warranted this. On the price aspects the United States representative stated that the relationship among the different prices of beef such as prime fed beef and manufacturing type beef could be one of the factors entering into consideration in the invocation of the suspension clause.

10. Another member of the Committee observed that the legislation provided for a change in the level of quotas parallel with changes in the United States domestic production. He pointed out that if production increased, imports would increase also, and total supplies would grow even faster. Unless consumption grew just as fast, the result would be a decline rather than the desired improvement in prices. If, on the other hand, domestic production declined without a corresponding decline in demand, the outside supplier would be penalized because quotas would be reduced, although he might be at least partly compensated by the higher prices that would result from the diminished total supply. The representative of the United States confirmed that these observations were generally correct and indeed illustrated the efforts of the United States Administration to keep legislation as fair as possible, avoiding placing the burden on imports should United States producers fail to discipline themselves. If they let production rise unduly, import quotas would rise and prices would decline; if they kept the pace of production down to that of consumption, they would not be penalized. In the other case mentioned, if for some reason production were to decline, and the reduced supplies resulted in an undue rise in prices, the legislation permitted a suspension of the quota system.

11. Asked why live cattle were excluded from the provisions, when the substantial trade in this item with Canada and Mexico must accentuate the main problem facing United States producers which was related to the overproduction of fed beef, the representative of the United States referred to the long historical background of this border trade and said that the disruption resulting from restrictions would be out of proportion to the benefits derived.

12. A member of the Committee stated that in addition to the import ceiling there was provision for a 10 per cent cut-back on imports which increased the area of unpredictability inherent in the legislation. If it was estimated that the ceiling for beef imports set out in the legislation was likely to be exceeded, then the actual maximum level of imports which would be permitted was a further 10 per cent lower. This could present a serious difficulty for an exporting country with its main production season falling in the last half of the calendar year, which could suddenly find that it was unable to export at all to the United States over the latter part of the year. The representative of the United States explained that the provision referred to meant that quotas would be applied only if the Secretary of Agriculture's estimate of how much meat would be imported in the absence of quotas exceeded by at least 10 per cent the quantity of imports (1959-1963 average and growth allowance) that would be permitted to enter if a quota system were in operation. This provision therefore allowed for a margin of error in case the Secretary of Agriculture underestimated the growth in domestic production or overestimated imports; it thus provided extra leeway so as to avoid the introduction of quotas.

13. A member of the Committee noted that the provisions required that estimates of meat imports into the United States during a given calendar year should be made before the beginning of that calendar year and subsequently before each quarter; and that estimates made after the year had begun would take into account actual imports made in that year, to the extent that data were available. He asked whether the President was empowered to regulate imports currently on the basis of these quarterly estimates, by, for instance, introducing new restrictions. The representative of the United States replied that the legislation did not empower the President to introduce any restrictions not provided for by law. He stated that quotas, when applied, would be for the calendar year. The quarterly revision of estimates of imports would permit the authorities to see whether the imposition of quotas during the year was necessary or not. For instance, according to the first estimate quotas might not be required, but might become necessary on the basis of a subsequent estimate, as revised in the light of imports that had actually taken place since the beginning of the year. Quotas would then be imposed, at a level calculated for the whole calendar year but taking into account the quantities already imported.

14. A member of the Committee asked for clarification regarding the discretionary authority of the President of the United States to suspend a proclamation or increase quota levels if required because of overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic livestock industry. The United States representative replied that in his view there was no inherent contradiction in that provision and that the President would have to take into account all factors which affected the national well-being, including the well-being of the livestock industry.

15. A member of the Committee referred to the provision under which the President could suspend the proclamation of a quota or increase the amount of a quota also in the event that supply was inadequate to meet demand at reasonable prices, and asked for more details on the meaning of the term "reasonable prices". The United States representative replied that it was a question of a subjective concept and that the President would have the latitude to decide whether or not consumer prices of beef were reasonable, but there was some guidance contained in the legislative history of Public Law 88-482 which indicated the understanding of Congress that the primary consideration would be current prices in relation to prices over the immediately preceding years. If prices received by farmers and ranchers for beef cattle in the current year unduly exceeded and were expected to continue to exceed unduly through the end of the calendar year average prices over the preceding five years, and if furthermore, these prices resulted in comparable or greater increases in the retail prices of beef, as reflected in reports of the Bureau of Labour Statistics, a basis would be established for suspending quotas.

16. A member of the Committee asked whether there was scope for the United States Government to conclude agreements under the legislation, providing for import quotas larger than those included in the legislation. If not, was it envisaged that arising out of the GATT Group on Meat an international arrangement would be negotiated which would remove the need for the legislation. The United States representative explained that the President had discretionary authority to admit annual quotas larger than those determined by the Act provided that he were satisfied that over a reasonable period of time those limits would not be exceeded. Referring more specifically to the possibility of a world-wide arrangement on meat as a result of the work of the Group on Meat, the United States representative expressed the opinion that in the event that an arrangement could not fit into the framework of existing legislation, it could be negotiated by the United States subject to ratification or the passage of implementing legislation by Congress. This might also require the amendment or repeal of the existing legislation.

17. A member of the Committee expressed surprise that resort should have been had to such legislation although bilateral agreements for the voluntary restraint of exports corresponding to a system of allocation of markets had been concluded recently with some of the United States' supplying countries. He asked whether those earlier agreements were compatible with the new legislation. The representative of the United States replied that as a practical matter no question of conflict between these bilateral agreements and the meat legislation could arise so long as quotas were not in effect. Such quotas were not expected in the foreseeable future. Meanwhile, there was a distinct possibility that a meat agreement would emerge from the Kennedy Round in which the countries concerned would all participate. If difficulties were to arise the United States Government would immediately enter into consultations with the governments concerned.

18. Some members of the Committee stated that in the United States several States had enacted legislation requiring the labelling of imported meat and meat products which was clearly aimed at discriminating against the sale of imported meat. In addition, in 1964 the United States Congress had passed the Food Stamp Act which included a provision to the effect that in administering the programme, food stamps could not be used for the purchase of imported meat or meat products containing imported meat. This could have discriminatory effects for meat imports. Since it was their understanding that Federal jurisdiction prevailed in matters concerning quarantine regulations, meat inspection, and international trade and commerce generally, they enquired of the United States representative what action his Government was taking, or intended to take, in respect of these matters. The United States representative explained that a distinction should be made between the application of the Food Stamp Act, which was of the nature of a Federal subsidy, and the various State laws on labelling and sanitary regulations. With respect to the Food Stamp Act the representative of the United States pointed out that this was a domestic subsidy and that it was natural that a programme of this kind was limited to domestic production. He was not aware that any of the State labelling regulations had actually been enforced. In any case, past experience had shown that such regulations were generally of dubious legality, but they had to be challenged in the courts and such challenges by meat importers were now being undertaken. The individual States did have the right to enforce sanitary standards more stringent than the Federal regulations, but not to discriminate against imported products. A legal action against one State had resulted in a court order for the release of impounded meat. This situation was extremely complex and the United States consulted with the governments of the exporting countries whose products were involved in such actions.

19. At the end of the discussion, a member of the Committee wished to point out that the considerations which had led the United States to enact the legislation in question were a reminder of the concern shared by other countries too and which related in particular to the desire to reconcile trade liberalization with protection of the legitimate interests of domestic producers. To explain his thinking, he emphasized that the United States Government, like other producing countries, gave priority to domestic production over import trade. He also observed that the United States Government exercised close supervision and management over the market, and that undoubtedly constituted one of the forms of market organization to which other countries were having recourse. Another member of the Committee stated that he could not accept that point of view.

20. The United States representative indicated that he could not accept the description that had just been given of the United States legislation. He pointed out for example that the United States legislation provided for growth in imports at the same rate as the growth in domestic production. He also called attention to the fact that the legislation did not provide for control of the market but for action in certain contingencies. He finally expressed the hope that any contracting parties undertaking to control their markets in meat would similarly allow imports to grow in proportion with the growth in domestic production.

ANNEX

CHANGES IN AGRICULTURAL POLICIES

UNITED STATES

Summary and Illustration of United States Meat-Import Law

Summary of law

1. The law applies only to fresh, chilled, and frozen beef, veal, mutton, and goat meat. It does not apply to any live animals, lamb, canned or any other processed meats.
2. The law does not actually establish quotas for meat imports. Rather, it establishes contingency quotas to be applied only if imports would otherwise exceed certain levels.
3. The allowed level of imports is computed by a formula which permits import growth proportionate to the growth in domestic production. Quotas - if they had to be established for any year - would equal the 1959-63 average imports of these meats adjusted up or down by the same percentage as the estimated average annual United States commercial production of these meats during that year and the two preceding years is above or below average production for the 1959-63 period.
4. The Secretary of Agriculture is required before the beginning of each calendar year, and thereafter before each quarter, to estimate how much meat would be imported during that calendar year in the absence of quota limits. Only if his estimate exceeds the contingency quota for that year (1959-63 average plus allowed growth) by at least 10 per cent, would quotas be applied.
5. Quotas, when applied, would be for the calendar year, not the calendar quarter. But any quota in effect because of an earlier estimate would be ended if a later quarterly estimate dropped below the "triggering point" of the allowed annual quota plus 10 per cent (except that a quota in effect during the third quarter would remain in effect during the fourth quarter).

6. Should quotas come into effect, the Secretary of Agriculture would allocate the totals among supplying countries on the basis of shares supplied by those countries during a representative base period. Adjustments may be made for special factors which have affected or affect trade in these meats. (The law does not specify the base period to be used for allocating country shares. The base period will not be chosen until and unless the situation arises in which quotas need to be applied.)

7. The law gives the President discretionary authority to suspend the application of quotas or to increase quota levels if he determines: (a) such action is required by overriding economic or national security interests of the United States; (b) the supply of meats covered by the law is inadequate to meet domestic demand at reasonable prices; or (c) trade agreements entered into after 22 August 1964 establish conditions that over a reasonable period of time assure a pattern of world trade in beef, veal, and mutton that results in United States imports of these meats in amounts consistent with the import levels prescribed in the law.

Illustration of quota figures

United States commercial production of beef, veal, mutton, and goat meat was:

1959:	14,211	million	pounds
1960:	15,461	"	"
1961:	15,954	"	"
1962:	15,955	"	"
1963:	16,952	"	"

1959-63 average: 15,703 million pounds

The growth of allowed imports in any calendar year is based on the proportion of (1) the estimated average annual domestic commercial production in that year and the two preceding years to (2) 1959-63 average production. For 1965, the pertinent years to determine the numerator of this proportion would be 1963-65. Commercial production and estimates for those years are:

1963:	16,952	million	pounds
1964:	18,872	"	"
1965:	19,279	"	"

1963-65 average: 18,368 million pounds (or
17 per cent over 1959-63 average)

United States imports of meats covered by the meat-import law were:

1959:	572	million	pounds	product	weight
1960:	451	"	"	"	"
1961:	614	"	"	"	"
1962:	925	"	"	"	"
1963:	1,048	"	"	"	"
1959-63 average:	722	(but the meat-import law specifies 725.4 million pounds)			

The growth factor would permit 1965 imports of 848.7 million pounds (17 per cent more than 725.4). But the bill allows a leeway of 10 per cent before quotas are called for. This provision would allow the estimate of imports to go up to 933.6 million pounds (10 per cent more than 848.7) before quotas became operative. But if the estimate of 1965 imports exceeded this 933.6 million pounds, quotas would have to be applied on basis of 848.7.

The first estimate of 1965 imports (announced 28 December 1964) was for imports of about 733 million pounds, 21 per cent below the quota-triggering level of 933.6 million pounds.