

COMPLAINTS

GERMAN IMPORT DUTIES ON STARCH AND POTATO FLOUR

*Report noted by the CONTRACTING PARTIES on 16 February
W.9/178 - 3S/77*

INTRODUCTION

1. The Panel on Complaints examined with the delegations of the German Federal Republic and of the Benelux countries the complaint of the Benelux countries regarding the failure by Germany to bring down to the level of the Benelux rates the German duties on cereal starch and potato flour as well as on some derivatives.¹ It examined the conditions under which the negotiations on these items were conducted at Torquay between the delegations concerned. It considered further to what extent the promises made by the German delegate at Torquay had been fulfilled so far and the prospects of a full implementation of these promises in a very near future. It was not necessary for the Panel to submit definite recommendations to the CONTRACTING PARTIES since the German delegation was in a position to make an offer which was considered by the Benelux delegations as providing a satisfactory adjustment of the matter for the time being.

FACTS OF THE CASE

2. In the course of the Torquay negotiations, the Benelux delegations requested the German delegation to agree on a reduction of the German import duties on the products specified in paragraph 1 above to the level of the Benelux tariff. The German delegation was only prepared to reduce the rates on cereal starch and potato flour to 25 per cent as compared with 15 per cent in the Benelux tariff, but agreed to give the assurance that further reductions would be contemplated in the near future, and the Chairman of the German delegation addressed a letter to that effect to the Benelux delegations on 31 March 1951. This letter, which is reproduced as an annex to this report, contained two promises which committed the German delegation acting on behalf of its Government. The first promise was of a general character; it contained an agreement by the German Government that the duties would be reduced "as soon as possible". The second was more specific, since the German Government accepted to enter into negotiations after the autumn of 1952 with the Benelux government to solve this problem.

3. The two parties agree that these promises formed part of the balance of concessions granted at Torquay and that the contemplated reduction of the German duties would be made without any further concession from the Benelux Governments. In accordance with the terms of the letter of 31 March 1951, negotiations took place in March 1953; no agreement was reached between the delegations concerned and discussions which took place between the industries concerned regarding potato flour were also inconclusive. Further negotiations took place in February 1954, but difficulties resulting from the direct and indirect effects of the price-support scheme applied in Germany for cereals prevented any progress from being made. Alternative suggestions put forward by the German delegation were not considered as satisfactory by the Benelux governments.

¹L/260.

CONSIDERATION OF THE CASE BY THE PANEL

4. After hearing the additional statements and clarifications which the two parties were able to give to it on a number of facts, the Panel felt that there was little prospect of the German Government being able, in the immediate future, to bring down all the duties on the products in question to the level of the Benelux duties. The Chairman of the Panel, therefore, invited the two parties to resume bilateral contacts in order to see whether some alternative but constructive offer could be made by the German delegation and accepted by the Benelux governments. If no such solution could be found, the Panel would have to adjudicate the matter.

5. At the second meeting of the Panel, the representative of the Federal Republic of Germany made the following offer: the German delegation, while pointing out that the German Government was not in a position to modify the customs tariff without approval by Parliament and that the delegation was not therefore prepared to indicate a date for the reduction of the tariff rates, agree to "request the Federal Government to propose to Parliament, within three months after the end of the Ninth Session of the GATT, to grant the following tariff concessions:

- 1) For *potato starch* a general annual customs quota amounting to 20,000 tons at a tariff rate of 15 per cent;
- 2) For *maize* and *wheat starch* a reduction of the existing tariff rate from 25 per cent to 15 per cent;
- 3) The concessions for potato starch as well as for maize and wheat starch will be limited to a period of three years;
- 4) The German delegation will request the Federal Government to negotiate with the Benelux countries, within one year after the entry into force of these concessions, on the possibility of reducing the tariff rates for rice starch and starch derivatives (e. g. glucose under Item 1702; dextrines under item No. 3507 as well as glues on the basis of starch under item No. 3509 B)."

6. This offer was considered as acceptable by the Benelux representative, on the understanding that their governments reserved their right to bring the matter again before the CONTRACTING PARTIES if the proposals of reduction were not approved by the Parliament of the Federal Republic of Germany or if the concessions were withdrawn after the period of three years contemplated in the German offer.

7. The Panel took note of the agreement reached between the delegations concerned on the basis of the offer which, in the opinion of both parties, represents a first step toward the fulfilment of the promise contained in the letter of 31 March 1951, and noted also the assurance given by the German delegation that the global custom quotas envisaged for potato starch would be administered in accordance with the provisions of Article XIII of the General Agreement.

8. In those circumstances, the Panel recommends to the CONTRACTING PARTIES to take note of this report and to consider Item 12 (*r*) of the Agenda as being disposed of.

ANNEX

German Delegation for
International Tariff Negotiations

Torquay, 31 March 1951.

The Chairman,
Benelux Delegations,
Torquay.

Gentlemen,

During their negotiations the German delegation and the delegations of the Benelux countries have studied at length the question of a new reduction of customs duty on starch and potato flour included in tariff item No. 1108 of the draft German customs tariff and on potato starch derivatives (e.g. glucose of item No. 1702, dextrines of item No. 3507 and starch derivative glues of item No. 3509 B).

The German delegation agrees that the duties in the German draft custom tariff on these products should be reduced as soon as possible to the level of the duties applied by Benelux. The proposal made by the delegation of the Benelux countries called for the following progressive reduction of German customs duty on starch:

as from 1 January 1952 – 25 per cent
as from 1 January 1953 – 20 per cent
as from 1 January 1954 – 15 per cent

A similar reduction of duty will be adopted simultaneously for starch derivatives.

The German delegation has been unable to accept the proposal made by the delegations of the Benelux countries. It is, however, authorized to state that the Government of the Federal Republic of Germany is prepared to open negotiations with the Governments of the Benelux countries on the subject of a new reduction of German duties on starch and starch derivatives with a view to applying as soon as possible under the new German customs tariff a duty of 15 per cent on starch and potato flour and similar duties on starch derivatives.

The proposed negotiations will begin at the request of one of the Governments of the Benelux countries, but not before the autumn of 1952.

I have the honour, etc.

(Signed): W. HAGEMANN