

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Balance-of-Payments Restrictions

REPORT ON THE CONSULTATIONS WITH NIGERIA

1. The Committee on Balance-of-Payments Restrictions resumed its consultations with the Government of Nigeria, suspended in July 1997, on 11 and 12 February 1998. The consultations were held under the Chairmanship of Mr. Peter R. Jenkins (United Kingdom) in accordance with the terms of reference of Article XVIII(12)(b) of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the GATT 1994. The International Monetary Fund was invited to participate in the consultations in accordance with Article XV:2 of GATT 1994.

2. The Committee had before it the following documents:

Report on Consultations with Nigeria:	WT/BOP/R/25
Notification from the Permanent Mission of Nigeria:	WT/BOP/N/32 and Add.1
Background Paper by the Secretariat:	WT/BOP/S/6 and Add.1

Opening Statement by the Representative of Nigeria

3. The opening statement by the Representative of Nigeria is attached as Annex I.

Statement by the representative by the International Monetary Fund

4. The representative of the IMF stated that he was not in a position to add to what had been said a year ago. An Article IV mission was due to visit Nigeria in April and after that, should there be a need, the IMF could present its updated view to the Committee.

Discussion in the Committee

5. One Member recalled the recent developments in the consultations held with Nigeria and noted that consultations had been suspended four times in the last two years in order to allow time for Nigeria to bring its measures into conformity. During the consultation in July, most members had called for the elimination of the measures immediately or over a much shorter time-frame than proposed by Nigeria. While he appreciated that the phase out schedule had been shortened from eight to five years, he expressed the view that allowing Nigeria four more years, until 2002, to continue its use of the measures would undermine its credibility in the WTO and, furthermore, make a mockery of the legitimate use of Article XVIII:B by countries that face a severe balance-of-payments crisis and require temporary measures to weather such financial storms.

6. Other members welcomed the liberalization that had taken place and the fact that Nigeria had presented a phase-out plan. Nevertheless, they supported the thrust of the previous statement. The Committee had already determined that there was no underlying balance-of-payments justification for

the measures. Even if there were, the measures in place would not be in conformity with Article XVIII and should be removed in accordance with paragraph 11 of that Article which was not modified by the Uruguay Round Understanding on Balance of Payments. Nigeria had already had sufficient time to phase-out its measures: they should therefore remove the measures immediately or just as soon as this was practically possible.

7. Members joined in calling for the immediate or prompt removal of the measures; one member pointed out that the balance-of-payments provisions did not provide for the type of phase-out that Nigeria was suggesting. Members stressed that they would be opposed to a further suspension of the consultations. One member urged the Committee to take a more considerate line towards Nigeria, and supported the proposed five year time-table. Another suggested that Nigeria's healthy reserve position pointed to their moving more boldly to eliminate the measures. The notification of products, including kaolin, maintained for safeguard reasons was identified as an issue requiring clarification, as was the methodology for dismantling pre-shipment inspection. It was pointed out that these issues could be discussed in more detail during the forthcoming Trade Policy Review of Nigeria.

8. The representative of Nigeria said he was in no position to propose an acceleration of the phase-out. He needed to refer the matter to his authorities. He requested a further grace period. Several members were unable to agree to this for the reasons given above.

9. The Committee then recessed to allow informal consultations to be held on how to proceed further. When the Committee reconvened, the Chairman noted that there was a consensus that the measures were not in conformity with the balance-of-payments provisions. The Committee had addressed the question as to whether Nigeria needed a further period of adjustment. One country had argued for a transitional period up to the year 2002. Other members had taken the position that this was far too long and could not be justified by the balance-of-payments provisions. Some members had said that, in the circumstances, they were unable to agree to a further suspension of the consultation. He asked for confirmation of this. Several delegations then confirmed the Chairman's understanding.

10. The delegation of Nigeria pointed out that many delegations had welcomed the economic progress made by his country and the removal of some measures. He asked for a further suspension of the consultations. The Chairman noted, however, that there was no consensus on this approach and that the only option available was to conclude the consultations without agreed conclusions as foreseen in the penultimate sentence of paragraph 13 of the Uruguay Round Understanding on the Balance-of-Payments provisions.

11. The representative of Nigeria noted that he could have accepted the draft conclusions which the Chairman had submitted to members of the Committee informally for their consideration, viz:

"The Committee recognized the efforts made by Nigeria in removing additional items from the import prohibition list with the adoption of the 1998 Budget and in shortening the time period for elimination of all import prohibitions maintained under Article XVIII:B from 2005 to 2002. It also noted the favourable developments in the Nigerian economy in the past year.

The Committee noted that under the 1994 Understanding, preference should be given to price-based measures and that measures may only be applied to control the general level of imports.

The Committee reiterated its conclusion, already stated in 1996, that the import prohibitions maintained by Nigeria could not be justified for balance-of-payments purposes, and that Nigeria was therefore under an obligation to remove the measures.

For its part, the Nigerian delegation stated that it was not in a position to revise its proposed phase-out schedule without further domestic consultations, leading to the annual subsequent budgetary policies. In the light of this, the Committee requested Nigeria to remove the remaining measures with effect from 1 January 1999, and to notify the steps taken to the first General Council thereafter.

On the basis of this request, the Committee agreed to conclude the consultations.

While these measures remain in force, Members reserve their rights under GATT 1994."

12. Several members responded to the Nigerian intervention by underlining their inability to agree to these conclusions, not least in the absence of any commitment from Nigeria to use a further grace period to eliminate the measures. While regretting that the consultations would end without agreed conclusions, they stressed the illegality of the measures and the fact that Nigeria had already been given ample opportunity to bring the measures into conformity with WTO rules. One member noted that there was no legal basis for a continuation of the measures and that these therefore should no longer be a matter for consideration by the Committee. It was also pointed out that it would be possible to continue the examination of the matter in other fora, such as the General Council. Members reserved their rights.

13. The Chairman said that, in the absence of agreed conclusions, he would be recording the different views expressed in the Committee, in accordance with paragraph 13 of the Understanding on Balance-of-Payments Restrictions. He drew the consultations to a close.

ANNEX I

Statement by the Representative of Nigeria

1. Mr. Chairman, I wish, on behalf of my delegation, to thank you once again for the opportunity that has been given to Nigeria to amicably resolve the problems related to the trade-restrictive measures that were put in place for balance-of-payments reasons.

2. You will recall that at the last consultation with Nigeria in July 1997, the Committee welcomed the submission of a time schedule by Nigeria. However, it opposed the eight-year time-frame that was proposed. Accordingly, since my delegation was not in a position to propose a shorter time period, the consultations were postponed to enable it brief the Nigerian authorities on the development. Nigeria was also requested to consult with interested members in the course of November 1997. However, this we could not do as a result of the 1998 Budgetary Process which took place at about the same time. This development was duly conveyed to this Committee.

3. Mr. Chairman, I wish to inform you that a series of consultations have taken place at various levels of government, the result of which is the five-year time-schedule which we are happily presenting today. As a demonstration of our commitment to the new proposal, two of the items slated for 1998 under the five-year time-schedule have already been removed from the Import Prohibition List with effect from 1 January 1998. These are:

- live, chilled or frozen poultry and eggs (excluding day-old chicks);
- beer and stout;
- barley and malt; and
- mineral and similar waters.

4. This leaves us with only four items on the list. The Committee will recall that in 1997, Nigeria had also removed two items: furniture and textiles from the Import Prohibition List. I am confident that members will agree that these measures taken by the Government of Nigeria demonstrate a clear and unambiguous commitment to the removal of other items on the List within the remaining period of the proposed time-schedule.

5. Mr. Chairman, Nigeria was able to achieve modest economic gains and growth in 1997 as follows:

- (i) Gross domestic product (GDP) grew by 3.8% as against 3.3% in 1996;
- (ii) The rate of inflation fell from 29.0% in 1996 to 8.5% as at 31 December 1997;
- (iii) External reserves improved significantly to US\$7.7 billion from US\$4.1 billion in 1996. However, Nigeria still has the problem of external debt service to contend with;
- (iv) The exchange rate was relatively stable;
- (v) The real interest rate was positive for the first time in many years; and
- (vi) The Government's fiscal operations recorded a moderate deficit of N 5.0 billion as against a surplus of N 38.0 billion in 1996.

6. Nigeria is fully committed to liberalizing all sectors of the economy. In this regard, the 1998 Budget contains several policy measures aimed at achieving that objective. In particular, all laws inhibiting competition in certain sectors of the economy like telecommunications, electricity generation, exploration of petroleum, export refineries, coal and bitumen exploration, and hotel and tourism are being reviewed. Additionally, several public sector enterprises are to be privatized and commercialized, through a policy of "guided privatization". Under this policy, public enterprises will be privatized one after the other so as to draw on valuable experiences and lessons that will guide the improvement of the programme.

7. In another development, the Government has also introduced measures aimed at complementing and reinforcing the customs and ports reforms embarked upon in the recent past. Necessary equipment is now being put in place at the Nigerian ports to carry out destination inspection. To this end, the Asycuda system is being introduced for the computerization of the ports which will facilitate timely clearance of merchandise being imported into Nigeria. The Government will also install the Hyco-Scan X-ray Scanning Inspection System at Nigerian ports so as to facilitate rapid scanning of packages, freight, vehicles, entire containers and trucks. Similarly, in the on-going port reforms, pre-shipment inspection of goods is being gradually phased out.

8. In the light of the modest achievements that have been recorded as well as the on-going liberalization of the Nigerian economy, there is the need for caution to ensure that the gains made are consolidated. The proposed five-year time-schedule, therefore, aims at ensuring that the removal of the restrictive trade measures is properly and carefully managed so as not to reverse the modest achievements of the past. Equally important is the need to allow time for the necessary institutional capacity-building, in order to cope with the on-going liberalization of the economy.

9. Finally, Mr. Chairman, let me reaffirm Nigeria's commitment to the rules and principles of the multilateral trading system. We, however, call on members to show understanding of the peculiar circumstances of the Nigerian economy and co-operate with my delegation towards concluding these consultations at this session.

10. Thank you for your kind attention.
