

JAPANESE RESTRAINTS ON IMPORTS
OF MANUFACTURED TOBACCO FROM THE UNITED STATES

Report of the Panel adopted on 11 June 1981
(L/5140 - 28S/100)

1. On 7 November 1979, the United States informed the CONTRACTING PARTIES that it considered that Japan maintained a variety of governmental measures, which taken together, established a pattern of discriminatory treatment against imports of manufactured tobacco inconsistent with GATT Articles III and XVII and that consultations between the United States and the Government of Japan had not succeeded in resolving the matter (L/4871).
2. At its meeting of 16 November 1979, the GATT Council agreed that if consultations between the United States and Japan under Article XXIII:1 on the matter of Japanese measures affecting imports of manufactured tobacco "did not lead to a mutually satisfactory solution, an appropriate procedure for consideration of the United States' complaint under Article XXIII:2 would be the establishment of a panel. The Council authorized its Chairman to take the necessary steps, in consultation with the two parties concerned, for the establishment of a panel with appropriate terms of reference if the matter had not been settled satisfactorily on a bilateral basis by 31 December 1979." (C/M/136)
3. In a letter dated 15 January 1980 and addressed to the Chairman of the Council, the United States Mission informed that bilateral consultations between the United States and Japan under Article XXIII:1 had been held on 27 December 1979 but had not resolved the matter. Therefore, the United States' authorities requested that the Chairman proceed to establish a panel as agreed upon at the Council meeting of 16 November.
4. Accordingly, the Chairman was in consultation with the two parties concerned as to the terms of reference for a panel which were established as follows: "To examine in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the United States, relating to certain measures applied by Japan affecting imports of manufactured tobacco products (cigars and pipe tobacco) (L/4871), and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings as provided in Article XXIII."
5. In addition, consultations on the composition of the Panel were concluded on 28 February 1980. The Panel had the following composition:

Chairman: Ambassador H. Kröyer (Iceland)

Members: Mr. A. Jara (Chile)
 Mr. A-P. Lautenberg (Switzerland)
6. The Chairman of the Council informed the Council at its meeting of 26 March 1980 of the above-mentioned terms of reference and composition of the Panel.
7. The Panel met on 29 February 1980, 21 March 1980, 26-27 March 1980, 23 April 1980, 13 May 1980, 23 May 1980, 7-8 July 1980, 17 November 1980, and 4 May 1981.
8. In the course of its work, the Panel held consultations with Japan and the United States. Background arguments and relevant information submitted by both parties, their replies to questions put by the Panel, as well as relevant GATT documentation served as a basis for the examination of the matter.

9. The representatives of Canada, the European Economic Community and Sweden notified their respective interests in the matter of manufactured tobacco imports into Japan during the meeting of the GATT Council on 16 November 1979. The Panel offered these delegations the opportunity to make known to the Panel any information or comments they wished to make relevant to the matter. Sweden made a written submission to the Panel.

10. Throughout its examination of the matter, the Panel gave the parties to the dispute adequate opportunity to develop a mutually satisfactory solution.

11. In a joint letter dated 4 March 1981, the United States and Japan informed the Panel that their two governments had successfully concluded bilateral consultations on the issue of manufactured tobacco. They stated that they anticipated implementation of this settlement in April 1981.

12. On 4 May 1981, the United States and Japan advised the Panel of the definitive implementation of the bilateral settlement. Both parties have reserved their rights under the GATT. On 5 May 1981, the United States informed the Panel that it was withdrawing its complaint under Article XXIII:2 on the basis of the settlement.

13. The Panel drew attention of the Council to the fact that agreement between the United States and Japan had been reached and expressed the view that this agreement constituted a solution to the matter before it. Consequently, the Panel considered the proceedings under Article XXIII:2 to be terminated.