

GENERAL AGREEMENT ON TARIFFS AND TRADE

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COUNCIL
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SAFEGUARDS

Interim Report by Chairman of the Council

1. At their meeting last November, GATT Ministers called for a comprehensive understanding on safeguards to be presented to the CONTRACTING PARTIES at their forthcoming session. I am now presenting an interim report on developments since that time to the Council as requested by the Chairman of the Ministerial Meeting (SR.38/9). This report is made on my own responsibility.
2. At Meeting of Council, 26 January 1983, Chairman of Council indicated that it was his intention to convene informal consultations on this matter very shortly (C/M/165, page 3). Such consultations have taken place.
3. You are all aware of the importance of the Safeguard question, its sensitivity, the proposals that have been put forward in past negotiations on safeguards and the positions taken by different delegations in these negotiations. You will appreciate, therefore, that our consultations indicated that a restatement of positions of principle would not be helpful and that it would probably be more useful to examine, frankly and informally, measures of a safeguard nature that had actually been taken, in order inter alia to understand better the underlying reasons for them, to seek to draw conclusions therefrom, and to use this examination as a basis for deciding on how to proceed further.
4. This examination has continued over the past few months and I would like to emphasize at the outset that the atmosphere in our talks has been very good. This was in part because the delegations participating in them

did so on a personal basis. It was also clearly understood by everyone that the examination which took place did not prejudice the legal nature of the measures discussed, nor the rights and obligations of the participants under the GATT.

5. The talks took as their starting point, but were not limited to, the list of measures established last year by the secretariat (Spec(82)18/Rev.2). It became clear at an early stage that the scope of these measures extended far beyond Article XIX of the General Agreement.

6. The examination of existing actions that has been held so far has, in particular, aimed at answering the following questions:

- (a) What is the precise nature of the action?
- (b) What are the reasons that have led countries to take such action?
- (c) What are the reasons that have led exporting countries to agree to such actions?
- (d) What are the reasons why Article XIX-type action has not been taken?
- (e) What can be said about the effects of the action including their effects on trade of the third countries?
- (f) What can be said about the phasing-out of the action, including any problems that need to be dealt with and how multilateral disciplines can be established?

7. The discussion that has taken place until now could not be expected to provide a final picture of the nature of these measures, the reasons underlying them or their effects. It does, however, permit me to make some observations. The discussion clearly demonstrated that the so-called "grey-area" measures are of very different kinds. There is a considerable variety, comprising not only bilateral arrangements of a VER or OMA type between governments providing for quantitative restrictions, surveillance systems, price undertakings or export forecasts, but also

industry-to-industry agreements where the specific rôle of governments was not always clear, and actions of a unilateral character. The discussions have also thrown some interesting light on the circumstances in which both Article XIX and these other measures have been used. The use of Article XIX measures has been less frequent than that of the so-called "grey-area" measures and the latter have been used not only as alternatives to Article XIX action, but frequently as substitutes for procedures relating to other GATT Articles, notably anti-dumping or countervailing charges provided for in Article VI. These actions are sometimes used under conditions not provided in Article XIX or other Articles of the General Agreement.

8. While the Group has had some discussion on the effects of individual so-called "grey-area" measures on the trade of the importing or exporting countries involved and of third parties and concern has been expressed regarding the increasing use of such actions, the Group has not yet discussed the consequences for the trading system in general of the use of these measures. Nor has the group yet examined the possibility of phasing out so-called "grey-area" measures, how to deal with the problems that would arise in such a process, nor how multilateral disciplines can be established in this area so as to ensure that the GATT system is not undermined.

9. Up to now the exercise has, for reasons that I have outlined and which I am sure you all will appreciate, been carried on within a relatively small circle. I myself and the Director-General have been, and continue to be, ready at any time to consult with other interested contracting parties on the matters under examination. We will, in particular, wish to consult widely as the process gathers momentum after the summer break.

10. It is my firm intention to carry the consultations forward in the coming months and to make a vigorous effort to develop realistic and pragmatic proposals in sufficient time to serve as a basis for action by the CONTRACTING PARTIES in accordance with the decision taken at the Ministerial meeting last year. These proposals should serve to restore and strengthen the rôle of multilateral disciplines in the use of safeguard measures and provide for greater security, equity and transparency in the functioning of the trading system.