

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

Spec(83)47  
1 November 1983

COUNCIL  
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## SAFEGUARDS

### Chairman's Report to Council

1. At the Session of the CONTRACTING PARTIES last November, Ministers called for a comprehensive understanding on safeguards to be presented to the CONTRACTING PARTIES at their forthcoming session (L/5424, page 5). Such an understanding should be based on the principles of the GATT and contain, inter alia, the following elements: transparency, coverage, objective criteria for action including the concept of serious injury and threat thereof, temporary nature, degressivity, structural adjustment, compensation and retaliation, notification, consultation, multilateral surveillance and dispute settlement with particular reference to the role and functions of the Safeguards Committee.
2. At the Council meeting on 26 January 1983, I indicated that it was my intention to convene informal consultations on this matter (C/M/165, page 3). Such consultations have taken place. An interim report to the Council on my own responsibility has been presented in July 1983 (Spec(83)27), as requested by the Chairman of the Ministerial Meeting (SR 38/9). This present report is again made on my own responsibility.
3. We are all aware of the vital importance of an improved and more efficient safeguard system for the maintenance and strengthening of an open trading system, especially in present economic conditions. But we are also aware of the great problems attached to the safeguards question, and that all efforts made in the past have failed to yield any concrete results.
4. It was therefore considered useful to use a different method of work, and to examine measures of a safeguard nature that had actually been taken, in order inter alia to understand better the underlying reasons for them, to arrive at a common analysis and to seek to draw conclusions therefrom, and to use this examination as a basis for deciding on how to proceed further.
5. This examination of measures was conducted very informally but very intensively over the past eight months. It was clearly understood by everyone that the examination which took place did not prejudice the legal status of the measures discussed, nor the final position of governments as to the results, nor the rights and obligations of the contracting parties under the GATT.
6. The talks took as their starting point the list of measures, established last year by the secretariat (Spec(82)18/Rev.2) on the basis of available information which was incomplete and unofficial, and addressed a number of questions which are set out in paragraph 6 of my interim report. A few additional actions were examined in the course of the discussion.

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7. The discussion that has taken place confirmed that so-called "grey area" actions comprise not only bilateral arrangements of a VER or OMA type between governments providing for quantitative limitations, surveillance systems, price undertakings or export forecasts, but also industry-to-industry arrangements, 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" actions, and a "grey area" surrounds not only Article XIX action, but a number of other GATT Articles, notably Article VI relating to anti-dumping or countervailing action. So-called "grey-area" actions have sometimes been used under conditions not provided for in Article XIX or other relevant Articles of the General Agreement. It was generally recognized that many arrangements were apparently concluded on an industry-to-industry basis and that far too little was known about such arrangements and their effects.

8. This discussion has, I believe, been very useful and has provided for a much better understanding of the problem. This is essential if a lasting solution is to be found. Even though Article XIX actions and the conditions and procedures that have applied to them have been considered, the discussions have tended to concentrate on so called "grey-area" actions and the circumstances and conditions under which they are taken. The discussions have also related to the effects of individual actions on the trade of the importing or exporting countries involved and of third parties, and on the effects of the so-called "grey-area" as a whole. Concern has been expressed regarding the increasing use of such actions.

9. In my consultations it has become clear that it was not possible to present to the CONTRACTING PARTIES at their forthcoming session a comprehensive understanding on safeguards and that the consultations would therefore have to continue. It has therefore been my aim to present to the Council today for consideration a report which would contain both a descriptive part, giving the main findings of our consultations, and also an action-oriented part. I had in mind making suggestions with regard to provisional action to be implemented immediately which would improve the climate for and facilitate progress in the negotiation of the comprehensive understanding called for by Ministers and would demonstrate that progress towards such an understanding was really being made.

10. This aim has been ambitious and it has not been possible for me to complete my consultations before this Council meeting. Without wanting to seem to be unduly optimistic I still cherish the hope that agreement might be reached on some immediate action and I for my part consider it of greatest importance in the present economic situation that a further determined effort be made to arrive at such agreement before the CONTRACTING PARTIES. If we succeed we could achieve an important confidence building measure. To this end I shall be pursuing my consultations after this meeting and presenting a further report to the CONTRACTING PARTIES when they meet in November so that the appropriate decisions can then be taken.