

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Trade and Development  
Forty-Eighth Session  
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## REPORT OF THE SUB-COMMITTEE ON PROTECTIVE MEASURES

1. The Sub-Committee on Protective Measures held its fifth session on 28-29 September 1982, under the Chairmanship of H.E. Ambassador G.O. Ijewere (Nigeria).
2. In his introductory remarks, the Chairman drew attention to the Sub-Committee's terms of reference, as determined by the CONTRACTING PARTIES in November 1979 (L/4899). These require it to examine any case of future protective action by developed countries against imports from developing countries in the light of the relevant provisions of GATT, particularly Part IV thereof, such examination being without prejudice to the rights of contracting parties under the GATT or the competence of other GATT bodies.
3. The Sub-Committee had before it three notifications received from governments in response to GATT/AIR/1790 and GATT/AIR/1836: a notification by Norway was circulated as document COM.TD/SCPM/W/15, and "reverse" notifications from India and Indonesia as documents COM.TD/SCPM/W/7/Rev.2 and COM.TD/SCPM/W/16 respectively. In addition, the secretariat had put together in COM.TD/SCPM/W/14 and Addendum certain information on a number of measures that could be of interest to the Sub-Committee. The information contained in the secretariat note was presented, as indicated in its paragraph 4, in accordance with the understanding reached at the first session of the Sub-Committee that the inclusion of measures in secretariat documents for the Sub-Committee would be without prejudice to views delegations might have regarding the desirability of taking up for examination any such measures or on whether they fell within the Sub-Committee's terms of reference.
4. The Sub-Committee organized its work by first taking up the notifications made by governments, followed by discussion and examination of a number of measures referred to in the secretariat document, including also developments with regard to certain measures examined at its earlier meetings.  
Norwegian notification (COM.TD/SCPM/W/15)
5. The representative of Norway said that the global import quotas on various textile items, which had been first imposed in 1979, had been notified to the CONTRACTING PARTIES under Article XIX. Expressing the view that Article XIX was the appropriate context for any further discussion of these measures, she said that their prolongation had been communicated to the Sub-Committee for its information. Noting that the measures affected certain textile products, she expressed the view that they should be seen in the context of measures applying in the textile sector generally.

6. The representative of the United Kingdom speaking on behalf of Hong Kong emphasized the continuing concern of his authorities about the Norwegian measures.

Indian notification (COM.TD/SCPM/W/7/Rev.2)

7. The representative of Pakistan, commenting on the information presented in the Indian notification and in Annex II of the secretariat background document COM.TD/SCPM/W/14, said that a striking feature of recent tendencies regarding measures affecting access for exports of developing countries was the increasing use of anti-dumping and countervailing actions. Emphasising that anti-dumping and countervailing investigations could have disruptive effects on developing countries' exports even where the investigations were terminated without anti-dumping or countervailing duties being imposed, he expressed concern that such investigations were often being initiated hastily. Moreover, the mere threat of anti-dumping and countervailing action could have a major inhibitive effect on developing country exporters and sometimes lead to long-term plans for expansion into markets being suspended or dropped. He was of the view that anti-dumping and countervailing actions, although legitimate when employed in accordance with the provisions of the GATT and the MTN codes, could be used in a protective manner. He regretted that there appeared to be certain tendencies in this direction, even though the purpose of the MTN codes concerned was to prevent such measures being used as disguised restrictions on trade. He suggested that the Sub-Committee should draw the attention of the Committee on Trade and Development to the increasing use of anti-dumping and countervailing actions against the exports of developing countries, with the recommendation that the Committee on Trade and Development and, if necessary, the Committee on Anti-Dumping Practices and the Committee on Subsidies and Countervailing Measures address this matter.

8. The representative of India, introducing his country's notification which had been circulated on 29 April 1982, said that it listed actions of a protectionist nature affecting Indian exporters. Correcting certain errors appearing in COM.TD/SCPM/W/7/Rev.2, he informed the Sub-Committee that under item 1, column 5, the last tariff line number mentioned should be TSUS 646.63 rather than TSUS 646.65; and that under item 3, column 6, the first countervailing duty rate referred to should read 4.24 per cent rather than 4.04 per cent. While he accepted that anti-dumping and countervailing actions could be legitimate measures under the GATT and the relevant codes, it was the contention of his Government that such actions were often being employed in a protective manner and inconsistently with the requirements of the GATT and the codes. In this regard, he referred to the remarks made in column 9 of the Indian notification concerning each of the actions listed. Giving examples, he referred to cases where it had taken over a year for his authorities to be apprised of the basis on which an action had been taken against an Indian export product. In some cases, dumping cash securities had been imposed without the Indian Government or the Indian exporter being given the reasons for such action. In another country, problems existed in certain countervailing duty proceedings in regard to such matters as the lack of an injury test and the refusal to take account of the refunding of indirect taxes. On the general question of the use of anti-dumping and countervailing actions, he expressed his support for the views of the representative of Pakistan, especially in regard to the tendencies towards the initiation of

investigations without adequate evidence, and also noted that developed countries should first consider the possibility of constructive alternate remedies before taking protective actions against developing countries.

9. The representative of Australia reaffirmed the view of his Government that anti-dumping and countervailing actions were legitimate responses under the GATT to unfair trading practices and that the Sub-Committee was not a proper forum for their discussion. His delegation was prepared to discuss these matters further in the committees of the appropriate codes. In this regard, he informed the Sub-Committee that his country had recently presented to the secretariat its instrument of acceptance of the Revised Anti-Dumping Code. The representative of the United States, associating herself with the views expressed by the representative of Australia, said that she had noted the statements made by the representatives of India and Pakistan and would report them to her authorities in Washington. She reaffirmed the willingness of her delegation to discuss anti-dumping and countervailing measures both bilaterally and in the committees of the appropriate GATT codes; in this context she recalled that the United States had notified all such actions to the committees concerned.

10. The representative of the United Kingdom speaking on behalf of Hong Kong, noting that the mandate of the Sub-Committee required it to examine protective measures whether they were taken consistently with the GATT or not, supported the inclusion of information on anti-dumping and countervailing actions in documentation before the Sub-Committee. Anti-dumping and countervailing measures were in his view protective measures; moreover, there was evidence that they were sometimes being used in an unnecessarily protective way. He felt that these matters should be addressed in the Sub-Committee as well as in the context of the codes concerned. This representative, together with the representative of India, welcomed the Australian statement concerning the Australian acceptance of the Revised Anti-Dumping Code, and looked forward to the examination of Australian anti-dumping legislation in the Committee on Anti-Dumping Practices.

Indonesian notification (COM.TD/SCPM/W/16)

11. In giving the floor to delegations for discussion on the "reverse" notification presented by Indonesia dealing with certain measures by the EEC affecting imports of manioc and rice bran from Indonesia, the Chairman drew attention to paragraphs 11-13 and Table II of Annex I of COM.TD/SCPM/W/14, which provide additional information on measures taken by the European Communities concerning imports of manioc and cereal bran, sharps etc.

12. The representative of Indonesia emphasized that the purpose of the notification had been to comply with the Sub-Committee's agreed notification procedures and respond to the invitation to notify extended in GAIT/AIR/1836. He expressed the hope that major trading partners when taking trade policy measures would fully take into account the economic and social development needs and efforts of those people in developing countries largely dependent for their livelihood on the production of the commodities affected by such measures.

13. The representative of the European Communities expressed his surprise that the Indonesian delegation should have notified the temporary and partial unbinding of the duty on manioc, shortly after signing an agreement with the European Communities on this matter following Article XXVIII negotiations. He said that the tariff quota that Indonesia would benefit from under the new arrangement was generous, being set at a level in excess of traditional trade flows and providing for substantial further increases over the period of the agreement; imports within this quota would not be subject to any increase in duty. Turning to the question of rice bran, he said that it involved the adjustment of a variable levy in line with the trend of prices on the world market, an action which in no way constituted a "new protective measure" to be notified to GATT. He concluded that the European Communities had thus fully complied with their obligations under the General Agreement.

14. The representative of Pakistan said that, as an exporter of rice, his country had an interest in the measure affecting rice bran. In regard to manioc, he expressed the view that the bilateral arrangement referred to in paragraph 11(i) of COM.TD/SCPM/W/14 appeared to entail a restriction on access to the Community market, and suggested that the Sub-Committee should take note of this.

Discussion of points arising out of the secretariat note  
COM.TD/SCPM/W/14 and Add.1

15. In regard to the new programme of assistance for the Australian textiles, clothing and footwear industries, the representative of the United Kingdom speaking on behalf of Hong Kong welcomed the information made available by the Australian delegation contained in paragraphs 5-6 of COM.TD/SCPM/W/14. He expressed his disappointment that the Australian Government, in deciding on the report of the Australian Industries Assistance Commission (IAC) on these industries, had not taken up certain of the IAC's recommendations and had not reflected in its decisions the more liberal attitude taken in the IAC report. He regretted that the Australian Government had not been more willing to open up its market in this important area for the trade of developing countries. He hoped that Australia would be more forthcoming in this respect in the future, adding that this would reinforce the impact of Australia's present initiative against world-wide protectionism. He recalled that Hong Kong was a major importer of Australian products, and that such goods entered Hong Kong without restriction.

16. The representative of Australia said that he would report the concerns expressed by the representative of the United Kingdom on behalf of Hong Kong to his authorities in Canberra. He said that the new assistance arrangements for the textiles, clothing and footwear industries did provide for an opening up of the Australian market. As noted in paragraph 6 of COM.TD/SCPM/W/14, tariff quota levels were increased annually by a fixed quota liberalization factor (averaging about 2 per cent) for each finished product quota category, and, in addition, all market growth was made available to importers. He was of the view that the new arrangements were more favourable to developing country exporters than those that had existed earlier.

17. Commenting on the information contained in paragraph 14 of COM.TD/SCPM/W/14 concerning an import restriction in France on watches from Hong Kong, the representative of the European Communities said that his

delegation was presently undertaking Article XXIII consultations with Hong Kong on this matter, and that the most recent consultation had taken place on 27 September. The outcome of the process of consultations was not yet known. The representative of the United Kingdom speaking on behalf of Hong Kong confirmed the information provided by the European Communities concerning the Article XXIII consultations. In addition, he drew attention to document L/5362, in which his delegation had notified the Contracting Parties of this and certain other restrictions applying in the Community against imports from Hong Kong. His delegation had requested that this matter be placed on the agenda of the next meeting of the GATT Council.

18. The representative of Pakistan, referring to the Swedish import licensing measure on certain mushrooms described in paragraph 16 of COM.TD/SCPM/W/14, said that his country was keen to expand exports of mushrooms, especially to European markets. Expressing the hope that the measure did not have a restrictive effect, he requested the Swedish delegation to provide additional information on the licensing system applying to mushrooms. The representative of Sweden, regretting that he did not possess the necessary background information about the system, expressed his willingness to return to this matter bilaterally with the delegation of Pakistan.

19. In regard to the information contained in paragraphs 17 and 18 of COM.TD/SCPM/W/14, the representative of the United States said that her country had imposed quotas on imports of sugar with effect from 11 May 1982. The Presidential Proclamation announcing these quotas had been given to the GATT secretariat in that month. She said that the quotas, which are allocated among supplying countries, are temporary and will be removed as soon as market conditions permit. Information on these quotas was contained in document L/5328, and additional information had been provided at the Council meeting of 29 June 1982.

20. The representative of Pakistan said that his country, in view of recent increases in its domestic sugar production, was taking an increasing interest in the export of sugar. However, it was finding to its concern that the trade regimes in sugar markets were inhibiting its export plans.

21. The representative of Finland, commenting on the information presented in COM.TD/SCPM/W/14/Add.1 concerning the introduction in his country of an indicative basic import price system on certain screws, emphasized that the measure in question did not involve any action at the border. In this regard, he noted that the measure had been erroneously referred to in certain press reports as a minimum import price. Given the nature of the measure taken and the low level of imports from developing countries, he felt that the measure was of little significance in terms of the Sub-Committee's mandate.

22. The representative of Hungary, referring to the balance-of-payments safeguard measures taken by her country under Article XII:2(a) of the GATT that had been notified to the CONTRACTING PARTIES in document L/5363 and which were mentioned in COM.TD/SCPM/W/14/Add.1, said that she was not in a position to discuss these measures since they had been taken recently and she had no further information beyond that presented in L/5363. She reaffirmed the readiness of the Hungarian Government to consult with the CONTRACTING PARTIES in the appropriate GATT forum.

23. The representative of Pakistan, referring to the information presented in paragraph 19 of COM.TD/SCPM/W/14 concerning automatic import licensing on certain products in Switzerland, expressed a concern that automatic or surveillance licensing once introduced had on occasion led to more restrictive licensing subsequently. He urged that the Sub-Committee follow such licensing systems closely. The representative of Switzerland said that the introduction of the automatic licensing system in question did not constitute a restrictive measure. That system was used solely for the administration of the system of compulsory reserves.

24. The representative of the European Communities said that the investigation in the European Economic Community on imports of tableware and other domestic articles of common pottery and stoneware referred to in paragraph 20 of COM.TD/SCPM/W/14 was of a statistical nature, and not a measure of protection in itself. The outcome of the investigation in terms of the future action that might be taken should not be prejudged.

Developments in respect of measures examined at the Sub-Committee's earlier meetings

25. The Sub-Committee had before it in paragraphs 27-32 of COM.TD/SCPM/W/14 certain information provided by the secretariat regarding developments with respect to measures examined at the Sub-Committee's earlier meetings. The representative of the European Communities drew attention to paragraph 28, which indicated that the quota levels for those categories of woven jute fabrics that were subject to restriction in Greece when imported from Bangladesh and India had been increased in 1982. He expected that the Community would be able to examine the possibility of a further increase when economic circumstances permitted.

26. In response to a question by Nigeria concerning recent developments in regard to Swiss price supplements on imports of edible vegetable oils and fats, which had been discussed at the Sub-Committee's third session (COM.TD/SCPM/3, paragraphs 8-11), the representative of Switzerland said that the price supplements were aimed at maintaining a certain balance in the Swiss market between the consumption of animal and vegetable oils and fats. The increase which had been notified to the Sub-Committee at its third session had been an adjustment to an increase in the butter price in Switzerland. Because of another increase in the butter price, the price supplements had been raised by a further SFr. 30 per 100 kilograms gross of processed raw material with effect from 1 July 1982.

27. The representative of Finland, noting that paragraph 32 of COM.TD/SCPM/W/14 contained a reference to a Chilean notification of certain measures taken by Finland and other countries presented to the fourth session of the Sub-Committee, said that it was his view that it had been understood in the Sub-Committee that these measures did not fall within its mandate, because they predated the establishment of the Sub-Committee. Therefore, he felt that it was no longer necessary to refer to these measures in the Sub-Committee's documentation.

Next meeting of the Sub-Committee

28. The Sub-Committee agreed that the Chairman, in consultation with delegations and the secretariat, would fix the date for the next meeting of the Sub-Committee, taking into account the points made on frequency of the Sub-Committee's meetings at the March 1980 meeting of the Committee on Trade and Development