

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

L/6945

26 November 1991

Limited Distribution

Original: English

TRADE MEASURES AGAINST YUGOSLAVIA FOR NON-ECONOMIC REASONS

Communication from Yugoslavia

The following communication, dated 18 November 1991, has been received from the Permanent Mission of Yugoslavia, with the request that it be circulated to contracting parties and inscribed on the Agenda of the Forty-Seventh Session of the CONTRACTING PARTIES.

The Yugoslav delegation would like to draw the attention of the contracting parties to and inform them on the recent trade measures taken by the European Community and several other contracting parties against Yugoslavia for non-economic reasons. Some other countries are still examining the possibility of applying similar measures. All the details of the said sanctions are still not known. Consequently, the delegation would like to initiate a discussion of the CONTRACTING PARTIES on the said matter, against the background of the basic GATT objectives, and to express the concerns of the Yugoslav Government deemed relevant for the implementation of the General Agreement. Depending on the evolution of the matter, we reserve our right to present more details later.

The EC and its member States, which met in Rome for a Special Ministerial Conference on European Political Cooperation on 8 November 1991, adopted a Declaration on Yugoslavia envisaging broad economic sanctions which should mainly be applied in the field of trade. The EC, among others, terminated the implementation of the Agreement on Trade and Cooperation with Yugoslavia, reintroduced quantitative limits for Yugoslav exports of textiles products and excluded Yugoslavia from the list of the GSP beneficiaries. These measures were subsequently put into force through relevant decisions and regulations taken at the appropriate levels and instances of the European Communities on 11 November 1991. They were published in the Official Journal of the EC L 315 of 15 November 1991 and entered into force as of the date of their publication. Possible additional economic measures are under consideration, including the proposal that the UN Security Council brings a decision on an oil embargo against Yugoslavia.

Informing of the above, it is not our intention to involve the CONTRACTING PARTIES in passing judgement on political matters which are behind the measures in question, but only to raise the issues which, in our mind, deserve the consideration of the CONTRACTING PARTIES due to the fact

that they relate to the functioning of the General Agreement, rights and obligations under it and the achievement of more open trade and strengthened GATT rules and disciplines in the Uruguay Round, hopefully in its concluding phase.

The above-mentioned measures, which may affect about two-thirds of the Yugoslav trade should be, in our view, examined and their implementation followed in the light of paragraph 7(iii) of the Ministerial Declaration adopted on 29 November 1982. We recall that this Declaration states that the contracting parties undertake "to abstain from taking restrictive trade measures, for reasons of a non-economic character, not consistent with the General Agreement". At this moment, it is not our intention to claim that the measures in question directly violate the relevant GATT provisions, taking into account that the majority do not relate to the contractual obligations under the GATT or could be justified under Article XXI.

However, we would like to pose the question on whether there are limits beyond which measures taken for non-economic purposes would represent an obstacle to the fulfilment of the basic GATT objectives and to the functioning of the General Agreement? How to weigh the political aims against the need to contribute to non-discriminatory and open trade policies, to further development of the less-developed contracting parties and to increase the predictability and certainty in trade relations? We consider these questions pertinent irrespective of whether or not trade sanctions for political reasons violate the GATT provisions.

Besides the Yugoslav trade, the punitive measures will hamper all its economic and trade partners. For example, in 1990 the total value of Yugoslav imports and exports of goods reached about US\$34 billion. The figure would be much higher if trade in services were to be included. Is it equitable to indirectly punish our partners, who have for years been patiently constructing their trade relations with Yugoslavia?

The Trade and Cooperation Agreement between Yugoslavia and the EC was, among others, based on GATT Part IV. Depriving Yugoslavia of the benefits of this Agreement and its exclusion from the list of beneficiaries of the GSP are not, in our view, in conformity with the spirit of Part IV and the principle of non-discrimination upon which the GSP is based. On the contrary, shouldn't the contracting parties exercise utmost prudence in using trade measures implying discrimination for purposes outside the trade area, especially when developing countries are in question?

There is a possibility that selective "positive compensatory measures" announced by the EC and some other contracting parties be applied to certain parts of Yugoslavia. If the mentioned compensatory measures are trade measures, wouldn't this create a serious precedent by way of a selective treatment of different parts of a single contracting party, which is alien to the General Agreement?

It would be extremely important that, in case such measures arise, they be fully transparent and duly notified so as to enable the CONTRACTING PARTIES to assess them from the prospect of the functioning of and

consistency with the General Agreement. In addition, for transparency reasons, the CONTRACTING PARTIES should be kept informed on all the measures already undertaken as well as those which could come later. We have especially in mind the notification provision contained in paragraph 4 of the Enabling Clause relating to the introduction, modification or withdrawal of the GSP treatment as well as the Decision of the CONTRACTING PARTIES concerning Article XXI of the General Agreement of 30 November 1982 under which "contracting parties should be informed to the fullest extent possible of trade measures taken under Article XXI". For the above-mentioned concerns on eventual discriminatory application of some measures to different Yugoslav republics, we think it would be useful if the CONTRACTING PARTIES recommend that this information also contain elements relevant in assessing the manner of their implementation.

The relevant Yugoslav authorities are considering the implications of the trade measures taken against Yugoslavia. There is also an intended possibility to extend sanctions in respect of the number of countries applying them, the nature of the actual sanctions and their GATT justification. That is why Yugoslavia would like to reserve its GATT rights, including the right to propose that the CONTRACTING PARTIES, taking into account their Decision of 30 November 1982 concerning Article XXI, "decide to make a formal interpretation of Article XXI". The necessity of such a decision should be assessed against the open-ended exceptions to the GATT provisions contained in some paragraphs of Article XXI and in the context of important objectives of the Uruguay Round to strengthen and clarify the GATT rules and disciplines in the spirit of enhanced mutual confidence. In this sense the interpretation of Article XXI would complement the expected results of the Uruguay Round.

In conclusion, and bearing in mind that the contracting parties are engaged in the Uruguay Round negotiations in which no efforts should be spared to contribute to the growth of world trade and enhancement of the international trading system, we would like to stress that it is of crucial importance that the CONTRACTING PARTIES re-evaluate the problem of punitive trade measures taken for non-economic reasons.

At this juncture we recall the statement of the Federal Executive Council of the Socialist Federal Republic of Yugoslavia issued on 14 November 1991 which, inter alia, stated: "...the adopted economic sanctions will to a great extent have counter-productive effects and will be primarily a most serious blow to the Yugoslav economy and hence to the majority of innocent civilians who have already been exposed to grave suffering caused by the war and to economic hardships". Consequently, the Federal Executive Council appealed to the EC to reconsider its decisions.