

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MDF/22

21 October 1985

Special Distribution

Group of Experts on Trade in Counterfeit Goods

MEETING OF 4 OCTOBER 1985

Note by the Secretariat

Chairman: Ambassador P. Rantanen (Finland)

1. The Group held its sixth meeting on 4 October 1985.
2. The Group examined a draft of its report to the Council prepared by the secretariat (MDF/W/51). After some discussion, the Group adopted its report. The Group noted that its report would be distributed as an L/-document (L/5878) for presentation to the Council meeting scheduled for 5-7 November 1985.
3. The paragraphs that follow record points not taken care of in the Group's report.
4. A member informed the Group that the "action programme" on external economic measures taken recently by the government of his country had included measures on counterfeit products. Anti-counterfeiting measures had been strengthened by the decision to appoint anti-counterfeit officers in the national police agency; this would be done around 1 April 1986. The anti-counterfeit officers would collect all relevant information on counterfeit products to strengthen the national police agency's function to guide and coordinate local police authorities' investigations on counterfeit products and to enhance public awareness of the issue. In order to facilitate the more effective control of counterfeit products, necessary measures were under consideration, including possible legislative measures centering on the introduction of new administrative enforcement measures. Local police authorities had already been instructed to exercise stricter control over counterfeit products and the month of October 1985 had been designated "anti-counterfeit month" in his country. During this month, the government would try to enhance public awareness against counterfeit products through its information service, thereby promoting prompt reporting to the police of information on counterfeit products. The government had also sent directives to major retailers reminding them of the laws already in existence, such as the Unfair Competition Prevention Law and the Trademark Law.
5. A member said that his authorities had not finished examining the draft report and might have some comments on the report at a later date. This member said that there was one view in particular which had been put forward in the Group which caused his authorities some concern. This member consequently informed the Group that the customs service of his country considered that it would not be appropriate to use customs authorities to intercept counterfeit goods at the border, as had been

suggested by some members of the Group. In his country there was, of course, legislation to protect owners and licensees of patents and trademarks. The real question was at what point in the commercial transaction this protection should start. Under the present legislation and procedures of the customs service of his country, customs would not be able to comply with an obligation which would, for example, prohibit a contracting party from importing counterfeit goods. The customs service of his country was under increasing pressure from exporters as well as importers to clear goods quickly and, at present, the period during which goods were actually under customs control was diminishing. With the current improved clearance procedures in his country, there was little time for complaints to be initiated with respect to counterfeit goods. Furthermore, the customs authorities were reluctant to require that their staff examine trademarks. They believed that such a procedure would create unacceptable bottlenecks for imports at the border and constitute an unnecessary barrier to trade. A further practical problem was the practice of selling container space so that a great variety of goods with a large number of owners may be in any one container; opening up every container would disrupt trade.