

GENERAL AGREEMENT ON

RESTRICTED

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TARIFFS AND TRADE

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GERMAN UNIFICATION - TRANSITIONAL MEASURES ADOPTED BY THE EUROPEAN COMMUNITIES

Communication from the United States

The following communication, dated 24 October 1990, has been received from the United States Trade Representative in Geneva with the request that it be inscribed on the Agenda of the Council meeting to be held on 7 November 1990.

At the October 3, 1990, meeting of the GATT Council, the European Community announced the adoption of certain transitional measures relating to the external trade of the former German Democratic Republic. The Community stated that the measures, which came into effect on October 3, were designed to facilitate integration of the former GDR into a fully developed market economy and at the same time to avoid serious economic and social disruption in the territory of the former GDR and among its main trading partners. (See L/6730).

At the October 3 meeting of the GATT Council, the Community representative indicated that the EC was aware of the need to notify the measures to the GATT, supply information on their application, and consult with affected contracting parties upon request. The United States Government recognizes that the transitional measures are aimed at minimizing trade disruption for the former GDR during the unification period. However, the tariff and other preferences proposed by the Community would appear to violate Article I of the General Agreement, and could further damage third-party trading interests at the very moment when GATT contracting parties are extending GATT relations to the former GDR. (The rapid extension of the EC customs and other régimes to a unified Germany have already resulted in significant disruption of traditional trading patterns, and the United States is concerned that such an abrupt shift in trading relations could be injurious to the economy of the former GDR).

In order to provide for a more thorough discussion of the GATT implications of this transition program, the United States requests the establishment at the November 7 meeting of the Council of a Working Party to examine the issue, and to provide a mechanism for monitoring the application of the measures. Consistent with the usual practice, we propose that this Working Party have the following terms of reference: "to examine the matter in light of the relevant provisions of the General Agreement and to report to the Council."

Prior to the October 3 meeting of the GATT Council, the United States delivered a letter to the representative of the Community referring to the Community promise to provide contracting parties with information concerning trade preferences and other trade-related aspects of the unification and specifying the types of information and commitments the United States believed should be included as part of the information so provided. The relevant portion of that letter said:

"We believe the information provided to the contracting parties should include the following:

- " - the tariff lines that will be affected by the preferential tariff quotas;
- " - the criteria which have been used to identify items for inclusion in the preferential system;
- " - how the "current levels of trade" that establish the level of the "zero-rate" tariff quotas have been determined;
- " - whether the list of tariff items included in the preferences can be changed over the life of the program, and if so, all information relating to the potential for such change;
- " - detailed information on any other trade measures contemplated in the transitional régime;
- " - how long the preferential system will last; and
- " - what, if any, reciprocal, tariff or non-tariff preferences are contemplated by the CMEA countries that will benefit from the EC transition preferences.

"Our purpose in requesting the above information is to enable us to determine whether the preferential trading measures to be granted are implemented with appropriate consideration of GATT obligations to third countries.

"In addition to the above information, my authorities wish me to inform you that they would expect the Community to make certain commitments to other contracting parties with respect to the transition measures. Such commitments should include: (a) a commitment to full transparency in the application of the measures; (b) a commitment to consult with contracting parties if they believe their trade has been damaged by the measures, and provision for appropriate corrective action if such damage occurs; and (c) a commitment to a time-certain for their elimination, with provision for Council review if the elimination fails to occur.

"We hope your authorities will be able to provide the above-requested information and commitments soon so that a thorough review of the GATT implications of this transition program can begin in the very near future."

We again request the Community to circulate such information to contracting parties as soon as possible, so that the Working Party can promptly and fully evaluate the impact of these measures. Pending that review, we fully reserve our rights in this matter.