

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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EEC - TRADE MEASURES TAKEN FOR NON-ECONOMIC REASONS

Recourse to Article XXIII:2 by Yugoslavia

The following communication, dated 6 February 1992, has been received from the Permanent Mission of the Socialist Federal Republic of Yugoslavia with the request that it be circulated to contracting parties and inscribed on the Agenda for the Council meeting of 18 February.

On 11 November 1991, the European Community and its member States adopted broad economic sanctions against Yugoslavia suspending the benefits of previously granted trade concessions. The measures in question are as follows:

- Suspension of trade concessions granted to Yugoslavia under the Cooperation Agreement between the Community and Yugoslavia;
- Application of quantitative limits on imports of textile products from Yugoslavia;
- Removal of Yugoslavia from the list of beneficiaries of the European Community's GSP scheme;
- Suspension of similar concessions and of GSP benefits for products covered by the Treaty establishing the European Coal and Steel Community;
- Appropriate actions to denounce or suspend the application of bilateral trade agreements between the Community and its member States and Yugoslavia.

On 2 December 1991, the European Community and its member States decided to apply selective measures in favour of "those parties which contribute to progress toward peace" (Official Journal of the EC L 342/12 December 1991).

The European Community justified the introduction of these measures by invoking Article XXI (L/6948).

In our view, these measures, taken for purely political reasons, are not consistent with the General Agreement.

The justification of the measures in question cannot be found in Article XXI.

The situation in Yugoslavia is a specific one and does not correspond to the notion and meaning of Article XXI(b) and (c). There is no decision or resolution of the relevant UN body to impose economic sanctions against Yugoslavia based on the reasoning embodied in the United Nations Charter.

Taking into account the current efforts aimed at strengthening and clarifying the GATT rules and disciplines, the strict and narrow interpretation of Article XXI is indispensable.

Furthermore, the "positive compensatory measures" applied by the European Community to certain parts of Yugoslavia create a dangerous precedent yet unknown in GATT practice. The selective treatment of the different parts of a single contracting party is directly contrary to the axiom on which Article I is built, that is the MFN treatment of "products originating in or destined for the territories" - taken as a whole - "of all contracting parties". Non-discrimination and the MFN treatment in trade between contracting parties make sense only if non-discrimination of every part of a contracting party is secured as well. Thus, different treatment of products originating from a part of a contracting party is contrary to the intention of Article I of the General Agreement providing for the "not less favourable treatment" of products (in connection with importation and exportation) of all contracting parties.

The said measures taken by the European Community for purely political reasons in our view impede the attainment of the basic objectives of the General Agreement and especially "the elimination of discriminatory treatment in international commerce". The measures are inconsistent with the obligations of the European Community under the General Agreement including, but not limited to, Articles I, XXI and the Enabling Clause. This is also a clear departure from the letter and intention of paragraph 7(iii) of the Ministerial Declaration adopted on 29 November 1982 which states that the contracting parties undertake "to abstain from taking restrictive trade measures for reasons of non-economic character non-consistent with the General Agreement" (BISD 29S/13).

On 23 December 1991, Yugoslavia requested to hold consultations with the European Community under Article XXIII:1 of the General Agreement (DS27/1). The European Community did not reply to the request and did not enter into consultations with a view to reaching a mutually satisfactory solution. Consequently, and since the deadline for the holding of consultations has expired, the Government of Yugoslavia requests the prompt establishment of a panel, pursuant to Article XXIII:2 of the GATT and to paragraphs C.1 and F(a) of the Decision on Improvements to the GATT Dispute Settlement Rules and Procedures of 12 April 1989.

Notwithstanding this request for the establishment of a panel and without prejudice to the future work of such a panel, the Government of Yugoslavia is fully prepared to conduct whatever further consultations may be required to reach a mutually satisfactory solution of this matter.