

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
DS40/2/Add.1
16 November 1994
Limited Distribution

(94-2438)

**COUNCIL
10 November 1994**

Original: English

POLAND - IMPORT REGIME FOR AUTOMOBILES
ORIGINATING IN THE EUROPEAN COMMUNITIES

Recourse to Article XXIII:2 by India

Addendum

The following statement made by India at the Council meeting on 10 November 1994 is circulated to the contracting parties at the request of that delegation.

I wish to draw the attention of the Members of the Council to India's communication contained in document DS40/2 dated 28 October 1994. The factual aspects of the case are described in that communication. It may be pointed out that we did wait for a considerable length of time after our initial communication in May 1993 to try and resolve the issue with Poland. It is only after it became clear that a mutually satisfactory solution was not possible that India decided to make the present request for the establishment of a panel.

As for the legal aspects of the case, we are of the view that Poland's import régime for automobiles, characterized, among other things, by a duty-free quota for the European Communities, is a clear violation of Article I of the General Agreement on Tariffs and Trade. The question of Article XXIV does not arise because the Article XXIV test has not been completed for the Interim Agreement on Trade Related Matters between Poland and the European Communities and in view of this, its legality cannot be prejudged, much less presumed. Should Article XXIV be invoked, however, we believe that Poland's actions violate the provisions of Article XXIV. In particular, Poland's action increasing the incidence of duties on automobiles from 1 January 1992 prior to the entry into force of the Interim Agreement on Trade Related Matters would be a clear violation of paragraph 5 of Article XXIV of the General Agreement on Tariffs and Trade.

In view of the above, India requests the establishment of a panel under Article XXIII:2 of the General Agreement on Tariffs and Trade and in accordance with the procedures established in the 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/61). My delegation also requests that the present statement be circulated as addendum to India's earlier communication on the subject.