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*Trade*

Tg 01478

PRIME MINISTER

Trade Policy

(E(82)71, 72 and 73; Foreign and Commonwealth Secretary's minute PM/82/86)

Attendance

1. In addition to E Committee members, the Lord Chancellor and the Attorney-General have been invited. Lord Trenchard will be deputising for the Defence Secretary.

BACKGROUND

✓ — 2. Protectionist trade policies which impede UK exports have been of concern to Ministers for some time. The Committee has discussed them previously in 1980 (E(80)21st Meeting), which identified some specific measures of benefit to UK industry, and more recently on 25 February 1982 (E(82) 6th Meeting) when the Committee considered memoranda from the Trade Secretary (E(82)<sup>FLAG A</sup>10) and the CPRS (E(82)<sup>FLAG B</sup>15). The Committee agreed that it was in general right to pursue an open trading policy and to avoid systematic covert protection of British industry and the erection of non-tariff barriers, and approved action to persuade the European Commission to act more vigorously against illegal and unfair trading practices in intra-Community trade. The particular problem of Japan was discussed by Ministers at OD(82) 9th Meeting on 27 May, when it was agreed that the United Kingdom should continue to press its views in the European Community (EC) on the need for a change in Japanese trading practices and economic policies, placing particular emphasis on the restrictive aspects of

CONFIDENTIAL



CONFIDENTIAL

Japanese financial policy, the international role of the yen and access to the Japanese capital market.

3. In E(82)71 the Secretary of State for Trade draws attention to the high tariffs and quantitative restrictions which often face UK exports outside the Community and EFTA, in contrast to the low tariffs and few quantitative restrictions on non-agricultural imports into the EC. He invites the Committee to consider what action the UK could take to strengthen its position in relation to protectionist trade policies by other countries, particularly Spain, Australia, Japan, USA and the newly industrialised countries (NICs). He points to the resentment of British firms at the apparent inaction of the UK, and lists a number of options for action which could be further explored for use after the GATT Ministerial if, as seems likely, that meeting fails to deal effectively with discriminatory practices. In E(82)73 the Foreign and Commonwealth Secretary points out some of the constraints which have to be taken into account. He concludes that unilateral action will seldom be profitable or sustainable, and that the process of persuasion and negotiation will generally continue to serve UK interests best. The Foreign and Commonwealth Secretary has also circulated with his minute PM/82/86 two papers agreed interdepartmentally at official level on action which might be taken within the Community to deal with the Spanish problem. The CPRS have also put in a Note with proposals both on the general approach which should be adopted and for a fuller study of possible action on car imports from Spain.

4. The problem of discriminatory practices remains acute because of the continuing pressure from British industry, especially on cars. This is likely to be increased by the measures just announced by the French government for inhibiting imports by obligatory country of origin marking and requiring all import documents to be in French.



  
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MAIN ISSUES

5. The papers before the Committee discuss more than a dozen options, and it will hardly be practical to go into each one in detail. Nor is the Secretary of State for Trade inviting the Committee to do so; he is asking only that officials should be instructed to examine them in further depth so that the Government will be ready to act without delay. It would therefore probably be most useful for the Committee to discuss the following questions:

- i. whether the general approach of taking action against imports from countries which deny comparable access to our exports would be likely to persuade these countries to open up their markets to the UK; and if so whether it should be taken
  - a. through the Community and/or
  - b. unilaterally;
- ii. whether any of the options should be ruled out now;
- iii. whether any action can be taken in advance of the official study.

An assessment of the individual proposals is annexed.

The General Approach

6. The Committee will no doubt wish to endorse the general aim of promoting UK exports and to give emphasis, as the Foreign and Commonwealth Secretary and the Secretary of State for Trade both do, to taking action whenever possible through the Community and GATT machinery. But, as the CPRS point out, this can be slow, and Ministers will want to consider the scope for unilateral action to defend the interests of British industry. In doing so, the constraints to which the Foreign and Commonwealth Secretary draws attention in E(82)73 will need to be taken into account. The CPRS also put forward a number of criteria which should be used in judging the desirability of unilateral action in individual cases. In particular, the Committee will want to consider:

CONFIDENTIAL



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- a. Possibility of a Protectionist Spiral The strains on the open trading system could be significantly increased if a major trading nation such as the United Kingdom were to be seen to adopt protectionist policies. The fact that the USA is taking an increasingly protectionist posture and that the French have just announced protectionist measures could mean that any UK action now would risk provoking a snowball effect. Any degeneration into general protectionism is bound to affect the UK particularly seriously with our very considerable dependence on foreign trade.
- b. Possibility of Trade Retaliation The NICs in particular have shewn themselves ready to use trade retaliation, especially against the United Kingdom (eg Indonesia in 1980 because of our tough line on textiles, and Malaysia in 1982 for mainly political reasons), and Australia has also threatened retaliation (in 1980 and 1981 over Community beef import quotas). If the main objective of our actions is intended to be to get other countries to open up their home markets, the risk of retaliation in any particular case would be, as all the papers before the Committee recognise, particularly relevant.
- c. Possibility of Action in the United Kingdom Courts by aggrieved importers if measures are taken which are contrary to current rules. It would be embarrassing to the Government to be overruled, and the UK legal system does not afford the scope for administrative delay and evasion possible in some other member states of the Community.
- d. Possibility of Problems with the Community These could include action in the European Court against United Kingdom measures not in accordance with Community law. The Commission are already urgently investigating the new French measures, several of which are likely to be illegal in Community terms (eg the tax concessions on exports, which are similar to the US DISC scheme which the



CONFIDENTIAL

Community has attacked in GATT; the translation of customs documents; and bilateral negotiations with third countries on trade matters within Community competence), and it seems likely that the French may have to climb down at least partially. It is true that action in the Community could in many cases be counted on to take place in slow time, and therefore give the UK a year or so of freedom of manoeuvre. But a case in the European Court against domestically popular measures would be unfortunate in terms of public opinion towards the Community. Any too obviously anti-communautaire action could also be damaging to our relations with the Community as a whole.

- e. The GATT Angle The Trade Secretary's paper E(82)71 points out the need to take the GATT Ministerial Meeting into account in deciding the timing of any measures. The Committee will also want to bear in mind that GATT rules forbid certain practices and allow countries against whom action is taken in certain circumstances to demand compensation or to take retaliatory measures. A GATT spokesman has already been publicly quoted as warning against measures to block imports.

The Proposals

7. The memoranda by the Secretary of State for Trade and the CPRS (E(82)71 and 72) set out a number of specific options for action after further study by officials. These are a possible Community initiative for greater trade reciprocity (paragraph 7 of E(82)71); emergency unilateral action under Community rules against import surges (paragraph 7 of E(82)71); Community action against imports from Spain (paragraphs 8 of E(82)71, 5 of E(82)72, and PM/82/86); unilateral safeguard action against Spain; a possible quota on Australian exports to the UK of Mitsubishi ~~---~~ (paragraph 9 of E(82)71); selective action under the 1962 Anglo-Japanese Trade Treaty (paragraph 10 of E(82)71); the scope for action against the USA (paragraph 11 of E(82)71); a Trade Reciprocity Act to remove the obstacle to unilateral action in the 1972 European Communities Act (paragraph 12 of E(82)71); and a possible Imports Advisory Board



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(paragraph 13 of E(82)71). The Committee is unlikely to wish to discuss each of these in detail, but they are individually assessed in the Annex to this brief in case any specific issues are raised. Unless the Committee wishes to exclude any particular option from further examination, it may wish to endorse the Secretary of State's proposal that they should be studied further by officials. If the Committee endorses the Secretary of State's conclusion that the United States is a special case, this option could be excluded from further study. The Committee may also wish to consider whether the very difficult issues raised by the idea of a Trade Reciprocity Act are unlikely to make detailed examination of this option a worthwhile exercise.

Timing

8. The Secretary of State for Trade proposes (paragraphs 14 and 15 of E(82)71) that the Government should avoid dramatic action before the GATT Ministerial, to avoid attracting the blame for any failure. As the Government's main interest in the GATT Ministerial is as an encouragement to the maintenance of the open trading system, it would indeed look odd for the UK to take a major protectionist initiative immediately before the meeting. In any case, a number of the proposals put forward require further study to establish their feasibility. But, as the Government's intention to do something about discriminatory trade practices is already well known, there could be a sense of anti-climax if no action were taken before the GATT Ministerial. Action which could be initiated now includes the initiative in the Community on the general question of unfair discriminatory practices (paragraphs 2-3 of the Annex), which could serve as a softening up for subsequent concrete proposals, and the two proposals for action on Spain in the Foreign Secretary's minute PM/82/86 (paragraph 10 of the Annex).

9. The Committee may also wish to endorse the Trade Secretary's proposals that the UK should also express its concern at the GATT Ministerial, and meanwhile trail this line in speeches, as he has already begun to do (eg in the House of Lords on 20 October). In this context, the Committee will wish to consider the line to take in the Debate on the Address.



CONFIDENTIAL

HANDLING

10. After the Secretary of State for Trade has introduced his memorandum, you will wish the Foreign and Commonwealth Secretary and Mr Sparrow to speak to their papers. The Committee will also wish to hear the comments of the Industry Secretary and the Chancellor of the Exchequer.

11. After discussion of the general issues, you may wish to seek comments on whether any of the proposals should not be the subject of detailed study (the Lord Chancellor and the Attorney-General in particular may have comments on the legal aspects of what is proposed). The Committee could then consider the timing and presentational aspects.

CONCLUSIONS

12. You will wish the Committee to reach conclusions on the following:

- i. whether new initiatives are required to remedy the grievances of UK industry in the face of protectionist policies by non-Community countries against our exports;
- ii. whether the proposed study by officials of possible initiatives should be extended beyond the Community and GATT machinery to embrace the scope for unilateral action;
- iii. whether any of the specific proposals for new initiatives, such as the scope for action against the United States and a Trade Reciprocity Act, should be ruled out now;
- iv. whether any of the proposals, such as beginning work in Brussels on the Community initiative for greater trade reciprocity and on the two proposals on Spain in the Foreign Secretary's minute, could be acted on before the GATT Ministerial meeting;





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- v. whether Ministers should express their concern at the lack of trade reciprocity in speeches leading up to the GATT Ministerial and at the meeting itself.

GUY STAPLETON

27 October 1982

CONQUEROR



## SPECIFIC PROPOSALS

A Community Initiative for Greater Trade Reciprocity

1. The Trade Secretary suggests (paragraph 7 of E(82)71) that this should both urge a tougher approach to the NICs and support recent French proposals for closer surveillance of sensitive sectors and for a trade complaints mechanism.

2. A tougher approach to the NICs is already being discussed by the Preparatory Committee for the GATT Ministerial Meeting. The Americans and Swiss, whose GSP schemes run out in 1985, have told the NICs that their legislatures are unlikely to agree to renew these unless the NICs make concessions by lowering their tariff barriers. The NICs have refused to consider any such deal (in any case few are members of GATT, and two of the most important - Hong Kong and Singapore - have no tariff barriers). The Community has therefore approached the question more cautiously in the GATT, suggesting a feasibility study on possible negotiations in which the NICs would be offered a contractual GSP scheme (instead of the current autonomous Community regime) in exchange for lowering their tariffs. The Trade Secretary has suggested to the Foreign and Commonwealth Secretary that the UK should continue to argue, with the USA, that the NICs should progressively apply GATT rules and that, if we have to settle for a feasibility study, we should argue for this to be completed quickly. Other action the Community could take would be simply to withdraw GSP treatment from the NICs in its current annual review of its own GSP. But this could bring the risk of trade retaliation either against the Community as a whole, or against the United Kingdom if we were known to be the moving spirit behind any such proposal (and our partners would not hesitate to put the blame on us). There may therefore be UK interest in avoiding action against the NICs which appears too confrontational, or in becoming isolated in appearing to take the lead.

3. The French Memorandum, which proposes closer import surveillance and provisions for a complaints procedure and executive action against unfair trade practices similar to Article 301 of the United States Trade Act, is being discussed within the Community. The UK has hitherto taken a sympathetic but questioning line. The Commission has put forward informal counter-proposals involving surveillance but no complaints procedure.



CONFIDENTIAL

In practice the United States' complaints procedure has not proved very useful. But for the Community to set up such a mechanism would be a signal of the seriousness with which it takes the problem of unfair practices. The Committee should therefore be able to agree that we should support the French proposals, subject to satisfaction on such details as the decision-making procedure.

Emergency Unilateral Action against Import Surges

4. The Trade Secretary also suggests (paragraph 7) that the UK should in addition be prepared to take emergency unilateral measures under Community rules against import surges, though he notes that without Community support such measures could last only 1-3 months. The Committee may decide that it would be sensible for officials to examine the possibilities but that in considering individual cases the United Kingdom would have to take into account the likelihood of Community support and the impression which might be made on domestic opinion if the UK had to cease its measures after only a short time because of Community opposition, when to continue them could lead to the risk of action both in the UK courts and the European Court.

Community Action against Spain

5. The Trade Secretary proposes Community action against Spain (paragraph 8), and the CPRS Note also makes suggestions for dealing with the Spanish problem. The specific proposals are:

- (i) Place type approval difficulties in the way of imports of the new General Motors (GM) Corsa car;
- (ii) Require country of origin markings on vehicles;
- (iii) Persuade the multi-national car firms to take action themselves to improve the balance of trade in vehicles and components;
- (iv) Use the safeguard provisions of the EC/Spain Trade Agreement of 1970.





CONFIDENTIAL

6. In considering use of type approval to block the Corsa, the likely reaction of General Motors and in particular the effect on its attitude to investment in the UK will need to be taken into account. Action which hit other vehicles as well as the Corsa could provoke an adverse reaction from Ford. Both companies work on the basis that an integrated European operation is necessary for viability, and successive UK administrations have accepted this. Depending on the precise measures taken, there could also be legal problems: this is an aspect which officials would need to examine further before any final decision were taken.
7. A requirement for a country of origin marking on vehicles, proposed in paragraph 5(iv) of E(82)72, is a possibility which has already been mooted in public debate, and would correspond to one of the recently announced French measures. But its effectiveness in reducing imports seems doubtful, especially given eg the recent report that Spanish-made Fiestas may be more reliable.
8. An approach to the car companies to improve the balance of trade is proposed in paragraph 5(ii) and (iii) of E(82)72. Such an approach would do no harm, but there seems no reason to suppose that Ford or General Motors would in practice be prepared to respond favourably. BL interest in increasing assembly in Spain (ie to overcome the high Spanish tariff barrier) may also not be great given the normal Spanish insistence on at least 65 per cent local content.
9. The possibility of retaliation by Spain would also need to be taken into account: Lord Trenchard (representing the Defence Secretary) will probably want to warn about the risk to defence contracts. The Foreign Secretary may also be concerned about possible implications on Gibraltar.
10. Investigating the possible use of safeguard action under the 1970 EC/Spain Agreement by the Community is proposed in the Foreign Secretary's minute PM/82/86. This reflects an interdepartmentally agreed recommendation and the Committee may therefore wish to endorse it, although the Foreign Secretary may note the need to avoid appearing to be acting against the new Spanish government immediately after it takes office. The Committee



CONFIDENTIAL

may also be able to agree without difficulty to the other proposal circulated by the Foreign Secretary - action within the Community to get better transitional arrangements after Spain's accession.

11. As for the possibility of unilateral safeguard action against Spain, there may be legal problems given that there are no current provisions in the EC/Spain agreement allowing unilateral action, and the UK would have to rely on the normal import regulation 288/82 which may not be compatible (this allows for a 1-3 month grace period - see paragraph 4 above). If this possibility were pursued, therefore, the Committee may wish to endorse the CPRS recommendation (paragraph 5(i)) on efforts to persuade our EC partners to acquiesce in unilateral action, especially if the Community itself were unwilling to take action.


Possible Quota on Australian Exports of Mitsubishi cars

12. The Trade Secretary proposes (paragraph 9) that we should make clear to the Australians that we shall take emergency action if Australian exports of Mitsubishi cars reach significant proportions. Whether the UK would obtain the necessary Community support for such action is however questionable, as the Australians will know. The Australians may attempt to call what they will see as a UK bluff, threatening retaliation if the UK carries out its threats. Their sense of grievance over Community policy is strong, and they are very conscious of their huge deficit in trade with the UK. Under GATT rules they could in any case demand compensation if the UK were for example to impose higher tariffs.

Selective Action under 1962 Anglo-Japanese Trade Treaty

13. The Trade Secretary discusses (paragraph 10) the use of selective action under the 1962 Anglo-Japanese Trade Treaty. This possibility has previously been considered by Ministers when they have noted that it would be subject to Community approval under the UK's EC Treaty obligations, and to Japan's right under GATT rules to retaliate in equal measure against our imports. While experience has shown that Japan only responds to strong and persistent action, the Committee will wish to bear in mind the potential risks to the inter-industry restraint arrangements on which we have hitherto relied, and which we are still trying to negotiate,





CONFIDENTIAL

for example, on machine tools. The Committee may wish officials also to consider, as suggested in the CPRS Note (paragraph 3(ii)), the pursuit of informal arrangements, together with continued strong pressure on Japan through the Community and in other international economic fora.

The United States

14. The Trade Secretary points out the difficulties of any action against the United States (paragraph 11). The settlement of the steel dispute also removes one of the major irritants in EC/European relations. The Committee may agree that this does not merit further study.

A Trade Reciprocity Act

15. An Act to remove the obstacle to unilateral action in the European Communities Act is proposed in paragraph 12 of E(82)71. The Secretary of State for Trade notes, however, that such a move would be challenged as incompatible with the EC Treaty. You will also have in mind the possibility of the UK having to take legislative action of a not dissimilar character to set aside part of the European Communities Act in order to permit withholding of part of the UK contribution to the Community Budget. This proposal could therefore have major repercussions on the UK's whole relationship with the Community.

Imports Advisory Board

16. This proposal (paragraph 13 of E(82)71) is likely to prove less controversial. Such a Board would enable cases to be thoroughly and openly examined and would diminish the influence of purely political pressure for protection. On the other hand, the ability to take effective action would be no greater, finance would have to be found, and the Board could be attacked as just another quango. The Committee may however decide that the proposal merits further study by officials.