

WORLD TRADE ORGANIZATION

RESTRICTED

G/SG/W/140

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(96-0870)

Committee on Safeguards

Original: English

REPLIES TO QUESTIONS POSED BY CANADA¹
CONCERNING THE NOTIFICATION PROVIDED BY AUSTRALIA²
OF LAWS AND REGULATIONS UNDER ARTICLE 12.6 OF AGREEMENT

The following communication, dated 5 March 1996, has been received from the Permanent Mission of Australia.

Question

Does the Government of Australia have, under existing legislation, the authority to impose any safeguard measure of the type provided for in Article XIX of GATT 1994?

Will the Government of Australia please confirm that the fact that Australia did not notify a legislative text to the WTO Committee on Safeguards implies that the Government cannot legally impose a safeguard measure without the passage of new or additional legislation.

Answer

As discussed at the meeting of the Committee in December 1995, Article XIX of GATT 1994 and the Agreement on Safeguards do not govern the imposition of types of measures *per se* (apart from subparagraph 1(b) of Article 11 of the Agreement on Safeguards), rather they set out one possible avenue for Members to obtain cover under the Agreement Establishing the WTO for certain actions that would be inconsistent with other Articles of GATT 1994.

As also discussed at the meeting of the Committee in December 1995, the Agreement Establishing the WTO is not part of Australian domestic legislation. Moreover as explained at that meeting, while the appropriate procedures referred to in Article 3 of the Agreement on Safeguards are not currently in place, to put them in place would not require a new act or an amendment of existing acts, though that possibility could not be excluded given the hypothetical nature of the question.

¹G/SG/W/115.

²G/SG/N/1/AUS/1.