

WORLD TRADE ORGANIZATION

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MALAYSIA - NOTIFICATION IN PURSUANCE OF ARTICLE XVIII:C AND THE 1979 DECISION ON "SAFEGUARD ACTION FOR DEVELOPMENT PURPOSES"

Communication by Malaysia

The following communication, dated 15 February 1995, has been received from the Permanent Mission of Malaysia, with the request that it be circulated to all members of the World Trade Organization.

I am writing in relation to the letter by Singapore dated 9 February 1995 and have the honour to present a communication from the Government of Malaysia as follows:

Singapore argues in their communication (Doc. G/L/2) that the Malaysian communication (Doc. WT/L/32) cannot be accepted as a notification under Article XVIII:C and the 1979 Decision on Safeguard Action for Development Purposes, as the notification should have been made prior to the introduction of the measure.

With respect to the delay in submitting the notification, it is an established practice under GATT that procedural deficiencies should not be used to invalidate an action that would meet the substantive criteria established in the Agreement. The introduction of the measure was, furthermore, published in the Official Gazette of Malaysia three weeks prior to its implementation. The requirements of Article X of GATT have thus been met and the measure brought to the attention of traders and governments also well in advance of its implementation.

Singapore claims that Malaysia's notification was made as an attempt to delay Singapore's request for consultations. This is not correct. Bilateral consultations have already begun under Article XXIII:1, and Malaysia is prepared to enter into consultations under Article XVIII:C whenever such consultations are requested.

It should further be noted that Singapore's description of the measure in question as an import prohibition is erroneous. As a matter of fact, licences were issued during the period from 7 April 1994 to 31 December 1994 for imports of 209457 metric tons of polyethylene and 45994 tons of polypropylene. This represents a majority share of total domestic consumption. It should also be noted that the measure is of a temporary nature.