

(which may be contrary to competition policy), or they are dealt with under the terms of a bilateral agreement providing for "safeguards" at the member state level or by unilateral action which the exporting country chooses not to challenge under the GATT.

An example of the last category is the limitation alleged to be applied by France to imports of automobiles from Japan (to a limit of 3% of the French market); it is understood that this limitation is enforced by the zealous applications of "technical standards" to potential imports. This particular example serves to make clear an important point of general import: "surrogate" measures, possibly highly discriminatory, may be implemented despite the GATT provisions if the exporting country does not challenge them; as a practical matter, third countries are not always eager to make an issue of such measures.

We should note that it was an important objective in the U.S. approach to the reform or interpretation of Article XIX in the Tokyo Round that all Article XIX surrogate measures should be brought under the same organized multilateral scrutiny as it was proposed would apply to formal Article XIX measures.

An example of an industry-to-industry measure is the understanding between British automobile producers and Japanese automobile producers to the effect that imports from Japan will not exceed 11 per cent of the U.K. market (by number of vehicles). These arrangements are a matter of common knowledge in the automobile trade and have been frequently noted in the press. In Japan the arrangement has been administered by agreement essentially between Nissan and Toyota, and considerable lobbying would, one may assume, be required for any new producer to secure a piece of the U.K. quota.

This particular arrangement is only part of a restrictive regime which appears to be highly anti-competitive and which must impose significant costs on consumers. There is little doubt that U.K. car prices are significantly higher than prices for similar vehicles in the rest of the EEC; the report of the House of Lords Select Committee on the European Communities stated that prices for cars in the U.K., net of tax, were 23% higher than in Belgium, 15% higher than in Germany, 12% higher than in France, and 7% higher than in Ireland. These higher prices have been achieved as a result of market dominance, by advertising and by control of dealer networks, and have been enforced by attempts to enforce limitations on sales of right-hand drive vehicles (or re-export) to Britain by EEC dealers in automobiles outside the U.K. This measure was reinforced, it was understood, by the unwillingness of U.K. dealers to implement after-sales warranties on vehicles purchased outside the U.K.²⁸

The ability of U.K. vehicle producers to maintain higher prices was supported by the fact that, given the higher price level, foreign suppliers were content to make high profits, and to not compete unduly on a price basis; in the case of Japan the motive for what was (and is) essentially a market sharing arrangement is evident; guaranteed access to the U.K. vehicle market is highly profitable.²⁹

The Commission has, however, been concerned with the bilateral, industry-to-industry arrangements fixing prices or quantities which govern foreign exporters in their exports to the EEC or to a member state. From one