

GENERAL AGREEMENT ON TARIFFS AND TRADE

Multilateral Trade Negotiations

SAFEGUARDS

(Circulated at the Request of a Certain Delegation)

(Following elements are not exhaustive.)

I. BASIC CONCEPTS

The basic framework of GATT Article XIX should be maintained and its proper implementation should be secured with a view to attaining and preserving further liberalization of world trade. For this purpose a guideline for the implementation of the Article in the form of a code or an interpretative note may be prepared.

II. SPECIFIC ELEMENTS

1. Criteria and conditions on the invocation of safeguard measures

(1) Criteria for invocation of safeguard measures should be set out as far in detail as practicable with a view to preventing abusive use of safeguard measures maintaining the basic framework of Article XIX.

(2) Conditions on the invocation of safeguard measures should include inter alia time-limit, degressivity, prohibition of reinvocation for a certain period of time, principle of non-rollback from the viewpoint that safeguard measures should be limited to the extent and such time as is necessary to prevent or remedy the injury to domestic industry.

2. Selective application

The principle of non-discriminatory application of safeguard measures should be maintained as selective applications have the danger of allowing easy or arbitrary invocation of safeguard measures.

3. Bilateral discriminatory safeguard arrangements and discriminatory quantitative restrictions

Existing discriminatory bilateral safeguard arrangements should be abolished under a new safeguard system. Existing discriminatory quantitative restrictions should be eliminated immediately.

4. Retaliation and compensation

The rights to retaliation and compensation should be maintained with a view to preventing abusive use of safeguard measures and maintaining the balance of rights and obligations under the GATT. Compensation should be preferred to retaliation from the viewpoint of avoiding setback from liberalization so far achieved. A multilateral surveillance body should not prejudice such rights to retaliation or compensation.

5. Multilateral surveillance body

(1) A multilateral surveillance body should be established to monitor the implementation of Article XIX with a view to securing fair and equitable implementation of a multilateral safeguard system based on Article XIX.

(2) Such a multilateral surveillance body should, while needing further careful consideration,

- (a) be of such a composition that can make decisions expeditiously and can be convened at any time upon request from a participant in addition to periodical meetings,
- (b) be composed of the representatives of participating governments, and
- (c) have such functions as;
 - (i) receiving prior-notifications of safeguard measures,
 - (ii) upon referral of cases, consulting with the participants concerned (in principle, prior to the invocation of measures) and expressing as necessary its advisory opinions or its own views,
 - (iii) having consultations on the implementation of the code or interpretative note on safeguard, and
 - (iv) receiving reports on the efforts on the part of the participants invoking safeguard measures such as degressivity, elimination of the causes of the invocation and possible termination of the measures prior to the time-limit.

6. Domestic procedures

A simple guideline might be set out in the code or interpretative note on domestic procedures, which, however, should leave details of the procedures to each participant.