

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/SG/W/1
20 May 1975

Special Distribution

Multilateral Trade Negotiations

SAFEGUARD MEASURES

Factual Note Based on Replies to the Questionnaire

1. Group 3(d) at its meeting of October 1974 requested the secretariat to prepare a factual note on "emergency-type actions in the widest sense" (MTN/13 paragraph 16).
2. A questionnaire to elicit data on which such a note could be based was circulated on 8 November 1974 (GATT/AIR/1128 reproduced in the Annex). Replies have been received from twenty countries or groups of countries: Australia, Austria, Brazil, Canada, EEC, Finland, Greece, Guatemala, Hong Kong, Japan, Korea, Malaysia, New Zealand, Norway, South Africa, Sweden, Switzerland, Turkey, United States and Venezuela.

Introduction

3. The Chairman's summing up at the April 1975 meeting of the Group "Safeguards" indicated that this note would be a digest and synthesis of these replies dealing with the types of measures taken, the products affected and trade coverage, the countries maintaining the measures and the countries whose exports are affected, international procedures or arrangements, and domestic procedures (MTN/SG/1, paragraph 4(a)). The replies to the questionnaire do not permit the establishment of a full and systematic study of the problems faced by governments and of safeguard action taken in recent years because not all participants in the negotiations have answered, because countries responding to the airgram have interpreted the questions asked in different ways and because some replies are less detailed and complete than others. It has not been possible to give figures for the trade coverage of measures taken as only two replies to the questionnaire contained detailed trade data.

4. Definitions of what constituted a safeguard measure varied. Some replies were very wide-ranging and related to long-standing measures which in the words of one reply "frequently obviate or largely obviate the need for special safeguard action to protect against injury from imports". These replies mentioned quantitative restrictions of all types (including embargoes, quotas and discretionary licensing), variable levies, mixing regulations, State-trading activities, government purchasing, systems based on minimum import prices and import surcharges. Some of these replies

paid particular attention to "residual" import restrictions and measures which "insulate markets against the possibility of distortion, especially in the agricultural sector". These replies emphasized measures applied by developed countries but one of these replies mentioned that developing countries "impose many types of restrictions which are of concern. For example, three quarters of the developing countries for which information was available impose quotas or licensing restrictions. Countries not imposing quotas or licensing restrictions generally maintain high tariffs on all products or on imports of items produced locally. Embargoes, local content requirements and a variety of other measures are also used by some developing countries".

5. Most governments responding to the questionnaire limited themselves to giving information about cases of essentially the same type as that foreseen in Article XIX of the GATT, in which problems for domestic producers were of such intensity that corrective action had been taken to safeguard their interests.

6. Most replies did not deal with anti-dumping or countervailing duties, nor with action taken in the field of textiles. These matters have, therefore, not been included in the more detailed analysis contained in the remaining sections of the paper. Action taken in the field of textiles is dealt with under the Arrangement Regarding International Trade in Textiles. Article 2, paragraph 4 of the Arrangement provides that participating countries shall report on the status of restrictions in force on 31 March 1975. The Textiles Surveillance Body is now examining the reports and is expected to make a report on this matter to the Textiles Committee on 30 June 1975.

7. Governments may, under special circumstances, safeguard the interests of domestic producers by limiting exports rather than limiting imports. For instance, controls may be placed on the export of raw materials used by domestic producers when these materials are in short supply. Only one reply gave information on such measures - relating to restrictions on the export of essential machinery by a developing country.

Nature of the problems which have arisen

8. Not all replies provided statements of the reasons for which safeguard measures had been taken or details of the particular circumstances of cases which had arisen. However, in nearly all cases for which details were provided it was reported that the safeguard measures were applied following a finding of serious injury or threat thereof. Some replies mentioned criteria used for reaching conclusions on determination of injury. These are summarized in the section dealing with domestic procedures. In many cases reference was made to increase in imports; the low prices of imports was also frequently reported. In some cases specific reference was made to low cost imports from one or few sources. Some replies

referred to particular circumstances such as material interference with price support and stabilization programmes, particularly in the agricultural sector, and in one case problems of product substitution between natural and synthetic materials was mentioned. In many cases safeguard action was taken to permit long-term or medium-term structural adjustments. In a few other cases the reasons for the safeguard action were apparently short term in nature e.g. the building up of a large volume of stocks from a previous production period.

I. The types of measure taken

9. Only one case of industry-to-industry agreement without governmental participation was given in the replies, the measure referred to in this case being a "voluntary" export restraint. This, and other replies, noted that if governments are not directly involved, the information available to them in this area may be incomplete. All other replies related to measures in which governments had been directly involved.

10. One reply reported a limited number of cases in which problems created by imports had been dealt with either by adjustment assistance measures alone or by adjustment assistance measures in conjunction with measures designed to reduce imports.

11. In all other cases the reports referred only to government action designed to reduce imports. Restrictions acting directly on the level of imports, either in the form of quantitative restrictions or of "voluntary" export restraints, were used roughly twice as frequently as measures acting through the price mechanism, such as increased tariffs, surtaxes or temporary duties. Among restrictions acting directly on the level of imports, quantitative restrictions were used about three times as frequently as "voluntary" export restraints and quotas were used ten times as frequently as restrictive licensing.

12. Five replies to the questionnaire justified all or some of the actions taken by reference to Article XIX of the GATT - and Article XIX actions counted is about 30 per cent of the total actions reported. Two replies justified action taken by reference to Article XVIII and one reply referred to action taken under a waiver granted in accordance with Article XXV. The other replies relating to countries which had taken action did not make reference to any articles of the General Agreement although one case of safeguard action under a generalized preference scheme was mentioned.

13. "Voluntary" export restraints are by their nature applied to particular sources of imports but it was not clear from the great majority of replies whether other safeguard action taken had been applied on a non-discriminatory basis or against imports from particular sources only.

14. Very few countries have reported on whether they considered the measures they had taken to be of a short-term nature or whether the measures might have to be maintained in the medium and long term and, it was not always clear from the replies whether the measures reported on had expired. However, it did appear that only about 40 per cent of the measures taken were still in force.

II. Product coverage

15. In most cases action has been taken in respect of precisely defined individual products rather than whole groups of products. The products affected and the number of products involved are given in Table I which has been presented for convenience under a number of headings.

16. Nearly 40 per cent of the products affected fall in the agricultural sector. A large number of these products were in the prepared foodstuff category. Most of the agricultural products were affected by action taken to safeguard one import market only (although that same market may have been restricted on more than one occasion) but imports of bovine meat were safeguarded by five countries or groups of countries, imports of sheep meat by three and imports of dairy products by two. Imports of fresh cherries and preserved mushrooms were also subject to safeguard action in two markets. In the great majority of cases in which safeguards have been applied to imports of agricultural commodities, quantitative restrictions rather than increased tariffs have been used.

17. In the remaining 60 per cent the products affected fall into the following sectors: chemicals, footwear, china and glass, base metals and articles thereof, machinery, vehicles, precision instruments and miscellaneous manufactures. In all cases bar one, products have been affected by action in one market only. This action has more frequently taken the form of increased tariffs than in the agricultural sector.

Table I

<u>PRODUCTS AFFECTED</u>		<u>Number of products</u>
- animals and animal products (cattle, bovine meat, lamb, dairy products including cheese, butter, milk powder, ice-cream)	(BTN Chapters 1-5)	9
- cereals (wheat and milled wheat)	(BTN Chapters 10-11)	2
- vegetable products (strawberries, cherries, apples, peaches, cabbages, peanuts)	(BTN Chapters 6-9, 12-14)	6

Table I (cont'd)

		<u>Number of products</u>
- prepared foodstuffs (frozen and preserved strawberries, preserved and canned mushrooms, tomato concentrate, confectionery, chocolate crumb and coconut, crystallized cherries, wines, canned fish, canned bamboo shoots, canned pineapples, wines, animal feeds)	(BTN Chapters 16-24)	15
- mineral fuels (hard coal and products thereof, gasoline, petroleum and shale oil)	(BTN Chapter 27)	3
- chemical and allied industries products (urea, ammonium fertilizers, sodium chlorates, zinc oxide, 4-methyl, pentan 2-OL, iso butyl ketone and diacetone alcohol, weedkillers, propylene resins)	(BTN Chapters 28-39)	9
- rubber, synthetic rubber (vinyl floor covering, tyres)	(BTN Chapter 40)	2
- footwear (shoes, leather footwear, rubber boots)	(BTN Chapter 64)	3
- ceramics and glass (articles of porcelain, china and ceramics for household purposes, certain earthenware and kitchen articles, sheet glass)	(BTN Chapters 68-70)	3
- base metals and articles thereof (alloy-steel, stainless steel flatware, hooks, locks, wire rods)	(BTN Chapters 73-83)	5
- machinery and mechanical apparatus (ball bearings, electronic tubes and products, electrotechnical products, telephone radio and TV sets, flue- heated economizers, cathode terminals, capacitors, injection moulding machines)	(BTN Chapters 84-85)	12

Table I (cont'd)

		<u>Number of products</u>
- vehicles (used four-wheel drive vehicles, motor vehicles, cars)	(BTN Chapter 87)	3
- optical and precision instruments (viewers, non-medical gamma ray apparatus)	(BTN Chapter 90)	2
- miscellaneous (certain leathers, silk, carpets, cordage, pianos, taperecorders, artificial Christmas trees)	(various)	7

III. Countries initiating the measures and the countries whose exports are affected

18. A number of importing countries have notified safeguard measures which they have initiated and the countries affected by these measures. A number of exporting countries have also reported measures which have affected their exports. There is a certain difference between the information supplied by importing countries and that supplied by exporting countries but this could well be a result of the incompleteness of many replies. The overall picture which emerges is presented in Table II. However, this picture is not as complete as one might wish, since it is based exclusively on the replies received and so far only twenty countries have replied to the questionnaire. As will be seen from the table, ten countries or groups of countries are reported to have taken safeguard action, eight of which are developed countries. Thirty-one countries or groups of countries are reported to have been affected by such measures; just under half of these were developing countries.

Table II

COUNTRIES INITIATING MEASURES AND COUNTRIES AFFECTED

<u>Country Initiating Measures</u>	<u>Countries Reported to be Affected</u>
Australia	Austria, Canada, China, EEC, F.R. Germany, Hong Kong, India, Italy, Japan, Korea, Malaysia, Netherlands, Spain, Taiwan, United Kingdom, United States
Canada	Australia, Korea, New Zealand, South Africa, United States

Table II (cont'd)

<u>Country Initiating Measures</u>	<u>Countries Reported to be Affected</u>
EEC	Australia, Canada, Japan, Korea, New Zealand, Portugal, South Africa, United States
- Benelux	Japan
- Denmark	New Zealand, United States
- France	Eastern Europe, Czechoslovakia, Japan, New Zealand, Poland, United States
- F.R. Germany	United States
- Ireland	New Zealand, United States
- Italy	Japan, Korea, United States, Yugoslavia
- Luxembourg	United States
- Netherlands	United States
- United Kingdom	Argentina, Australia, Brazil, Colombia, Japan, United States, Uruguay
Greece	Australia
Iran	Australia
Japan	Australia, Brazil, Canada, Korea, Malaysia, New Zealand, United States
Norway	New Zealand
Sweden	Eastern Europe, Korea, Taiwan, United States
Switzerland	New Zealand, United States

Table II (cont'd)

<u>Country Initiating Measures</u>	<u>Countries Reported to be Affected</u>
United States	Australia, Canada, Costa Rica, Dominican Republic, EEC, Guatemala, Haiti, Honduras, Ireland, Japan, Mexico, New Zealand, Nicaragua, Panama

V. International procedures or arrangements

19. It was reported that commercial agreements between several member States of the European Economic Community and Japan contained a bilateral safeguard clause; at the time these member States renounced the use of GATT Article XXIV. Reference was made in particular to special bilateral safeguard arrangements between Japan and the United Kingdom, France and the Benelux countries. These arrangements were reportedly used by France on cinematographic apparatus in 1966 and by the Benelux countries on the frames of umbrellas in 1967. It was also reported that action had been taken for a short time period only.

20. The EEC also reported that safeguard clauses had been included in a number of bilateral agreements with certain East European countries which had terminated on 31 December 1974 and that relations between the countries concerned were now exclusively based on the relevant provisions of the protocols of accession.

21. The EEC reported that safeguard provisions existed in all free-trade area agreements between the Community and its partners. These set out procedures in the case of measures to be applied to trade between the partners, and it had already been indicated that such measures would not be extended to third countries unless the provisions of Article XIX were satisfied.

22. Sweden reported that measures to restrict trade had been imposed or maintained during the past five years in the context of bilateral agreements between Sweden and Bulgaria, Czechoslovakia, Hungary, Japan, Poland and Romania and that, in most long-term agreements with State-trading countries, import quotas were established on a yearly basis for goods subject to quantitative restrictions.

23. The United States for its part reported bilateral consultations with a number of countries leading to the conclusion of self-restraint arrangements for three products, i.e. strawberries, meat and steel mill products.

24. Venezuela reported that the conduct of its external trade was governed by the safeguard clauses of the Cartagena Agreement (Chapter IX) and of the Montevideo Treaty (Chapter VI). These provisions are described briefly in the following section of this paper.

VI. Domestic safeguard procedures

25. Sixteen countries have replied to this question. Brazil, Guatemala and Switzerland have said that they did not have any special procedures. Answers relating to domestic procedures of the remaining thirteen countries, Australia, Canada, EEC, Finland, Japan, Malaysia, New Zealand, Norway, South Africa, Sweden, Turkey, Venezuela and United States are summarized below.

26. The coverage may appear to be uneven. This section attempts to give an account of the domestic procedures which is as fair as possible. However, because of the unevenness of the replies themselves, the description below is at times a reproduction in toto of the replies and at other times simply a summary thereof. The comprehensiveness of the individual descriptions or the lack of it is therefore accountable to purely practical difficulties.

27. Australia. Normal procedures for providing protection for domestic producers are embodied in the Industries Assistance Commission Act, 1973, which gives legislative effect to the functions and powers of the Industries Assistance Commission (concerned with longer-term issues), and the Temporary Assistance Authority (concerned with short-term issues when urgent action is required). Generally speaking, and except with regard to (a) unilateral or multilateral trade agreements, and their negotiation, and (b) tariff preferences for developing countries, the Australian Government is bound under the Act to refrain from providing assistance to local industry unless it has received a report from the Industries Assistance Commission on the matter.

28. The Act also stipulates that where it appears that urgent action may be necessary to protect an industry, in relation to the importation of any goods generally, or in relation to the importation of goods from a particular country or countries, the Temporary Assistance Authority may be requested to report within thirty days whether urgent action is necessary to protect that industry. If action is necessary, having regard to the public interest and to Australia's obligations under bilateral or multilateral trade agreements, including the GATT,

the Temporary Assistance Authority is to report on the degree of action necessary and whether the protection can best be provided by means of a temporary duty, or if not, by means of the temporary prohibition or restriction of the importation of those goods, or by combination of both types of measures.

29. Although there are no formal guidelines provided in the Act, the factors taken into consideration include, among others, current and recent trends in employment in the industry under review and in related industries, recent trends in the volume of competitive imports, and imports' share of total market supplies, price and quality competitiveness of imports compared with domestically produced alternatives, recent trends in the production and sales by domestic producers and profitability of domestic producers.

30. Under the legislation the Temporary Assistance Authority is enabled to conduct its enquiries in such manner as it thinks fit. Time permitting, it is usual procedure for a public enquiry to be held with the date(s) and place(s) of enquiry being advertised beforehand in the press; and with all interested parties being invited to make submissions and present evidence. Representatives of foreign countries are free to, and often do, make submissions. However, there is no obligation on the Temporary Assistance Authority to hold a public enquiry. The usual procedure followed in the initiation of an enquiry by the Temporary Assistance Authority is for an industry which feels that it is under threat of serious injury to present a case to the Australian Government for consideration.

31. Canada: Three different acts of legislation or procedures are available to the authorities. First, Section 8(2) of the Act regarding Customs Duties empowers the authorities to impose a surtax, the duration of which is limited to 180 days. There are procedures laid down for assessing the cases. The criteria used are prices, trade volume, production and inventory, production costs, employment and profits. Second, quantitative restrictions may be imposed under Section 5(2) of the Export and Import Act. This is preceded by an inquiry under Section 16(1) of the Anti-Dumping Act. Further goods may be added or deleted under Section 5(1) of the former. Thirdly, the negotiations and investigation of self-restraints case lies with the Ministry of Industry, Trade and Commerce. The review leading to such arrangement is carried out by an Interdepartmental Committee.

32. European Economic Community. Safeguard actions at Community level are governed by regulations 1439/74 and 109/70 establishing common rules for imports. These regulations ensure a strict conformity with international obligations of the EEC, especially with GATT Article XIX. The procedures are informal. In the case where action by member States is still permitted certain EEC special procedures have to be observed as defined in the Council's decisions of 19 December 1972 and 2 December 1974. For agriculture, the Common Agricultural Policy provides for a safeguard clause in all market regulations.

33. In the Federal Republic of Germany, the relevant legislation is contained in the Foreign Trade and Payment Act and the Foreign Trade and Payment Order. The safeguard clause of the Act is based on GATT rules. The imposition of quantitative restrictions is tied to a number of rigorous criteria.

34. Belgium. The law of 11 September 1962 authorizes the administration to regulate import, export and transit of goods in order to safeguard vital interests in a particular sector or the economy as a whole. The procedures are of an administrative character. Criteria for examination of cases includes imports, import prices and elements likely to distort competitions. For Luxembourg the relevant law is that of 9 August 1963 (as amended by the law of 27 June 1969). For the Netherlands the law of 5 July 1962 provides the authority. Licensing and quotas are usually applied. There are no special procedures. For the three countries, before enforcement of the measures adopted, a prior decision at Benelux level is required.

35. France. The internal procedures enabling the regulation of imports of merchandise which causes or threatens to cause serious injury to domestic producers are based on the decree of 13 July 1949 published in the official journal of the French Republic dated 14 July 1949. In applying this provision, "advices" to importers make known to those interested the merchandise which is subject to restrictions. The procedure applicable in particular cases is indicated in the "advice", in conformity with the decision of 30 January 1967 published in the official journal of the French Republic dated 31 June 1967.

36. United Kingdom. United Kingdom procedures for receiving representations from industry, considering them and, when thought appropriate, making a case in support of them to the Commission are informal.

37. Finland. The procedures for handling cases are laid down in two parliamentary acts: Act No. 375 of 1968 on the Prevention of Dumping and No. 157 of 1974 on the Safeguarding of Foreign Trade and Economic Growth. The text of the Act on the Prevention of Dumping has been circulated by the GATT in document L/3075 of 16 October 1968. According to this Act, the Ministry of Finance is empowered to impose a special duty on goods imported by subsidy or

under normal value so that the import causes or threatens to cause material injury to domestic production. An investigation by the Ministry of Finance can be initiated after an application by an industry, or on its own initiative. The investigation meant in the Act on the Safeguarding of Foreign Trade is carried out by the National Board of Customs and can be initiated by the Board itself or by the Ministry of Finance. The evidence can be presented by the Ministry, the Board and the industry concerned. The factors that are taken into consideration in the investigation are import prices, volume of imports, and the detriment caused to a domestic industry or to the employment situation in the line of production concerned. The safeguarding measures under this Act are a compensatory charge and a surcharge.

38. Japan. Customs Tariff Law of Japan provides in Article 9 - 2 for emergency duty and Cabinet Order Relating to Emergency Duty provides for the procedures for introducing emergency duty. These provisions are in line with the provisions of Article XIX of the General Agreement. Japan has never invoked emergency duties up to now. The Foreign Exchange and Foreign Trade Control Law provides in Article 52 for the approval of import and the Import Trade Control Order provides for its detailed procedures. In accordance with the above-mentioned law and regulation the Minister for International Trade and Industry is authorized to control import. However, there has been no case in which this authority has been used for the implementation of Article XIX of the GATT.

39. Malaysia. Cases are considered by the Special Advisory Committee on Tariffs which has been set up under the Federal Industrial Development Authority Act of 1972. The Committee advises the government on protection, alteration of tariffs and the exemption from customs and other duties for imports.

40. New Zealand. Procedures for handling cases in which imported goods cause or threaten to cause serious injury to domestic producers, were laid down by Statute under which cases can be channelled through an Emergency Protection Authority. In terms of this Act matters may be referred to the Authority by the prescribed Cabinet Minister. The Authority is required to report, within thirty days of receipt of the request, on whether urgent action is necessary to protect the industry in relation to the importation of the goods concerned, and if such action is necessary, on the nature of the protection considered by the Authority to be appropriate and the extent and duration of such protection in this regard. The Authority may recommend either the imposition of a temporary customs duty, and/or the temporary restriction of the importation of such goods. The Act provides that temporary protection, whether by tariff or quantitative controls, may be imposed by the Government where the Minister who requested the report has referred to the Tariff and Development Board (established by Statute in 1961) for inquiry and report, the question of whether any permanent protection may be required in respect of the goods concerned. While the function of the Emergency

Protection Authority is to examine the need for urgent action in relation to a particular industry, the Board may also, at the request of a prescribed Minister, review the appropriateness of protective levels generally, in circumstances where imports appear to be causing or threatening injury to a domestic industry, but the need for urgent action is not apparent.

41. Inquiries by the Emergency Protection Authority and the Tariff and Development Board are initiated by the Government in response to representations from interested parties or, in the case of Tariff and Development Board inquiries, in the context of the Government's policy of reviewing the protective needs of domestic industry. Both the Authority and the Board may seek information from any relevant source, and it is open to all persons or organizations with an interest in the inquiries to make such representations as they think appropriate. The Emergency Protection Authority while open to such representations, is not compelled to hold public hearings.

42. Norway. The Ministry of Commerce initiates investigations with regard to market disruption. Measures can be introduced in accordance with Provisional Act relating to import prohibition dated 13 December 1946 No. 29 and Royal Decree of 12 December 1945 with later amendments. Market disruption is being determined on the basis of criterias accepted by GATT.

43. South Africa. The Board of Trade and Industries (established by Act of Parliament No. 19 of 1944) is responsible for making recommendations to the Government to protect local industry.

44. Sweden. Measures for handling cases in which imported goods cause or threaten to cause serious injury to domestic producers mainly envisage quantitative import restrictions (or export restrictions by the exporting country). Tariffs play a less prominent rôle in this context. Modifications in tariffs in principle require a decision by Parliament. The Government can apply anti-dumping or countervailing duties in accordance with Article VI of the General Agreement and the Anti-Dumping Code. As far as quantitative restrictions are concerned imports of most goods are subject to a general prohibition in accordance with a Government Ordinance dated 14 March 1947. According to this ordinance imports are not allowed unless permission has been granted by the National Agricultural Marketing Board in case of agricultural products and by the Board of Commerce in case of other goods. The licensing authorities have based themselves on the ordinance mentioned in placing most imports from most sources on the so-called free list. Introduction of quantitative restrictions can be decided by the Government. Any such measure is examined with reference to the situation for the product in question, taking into account existing international obligations.

45. Turkey. The Council of Ministers and the Ministry of Commerce have the legal authority to take measures relating to both imports and exports.

46. United States. Procedures regarding serious injury or threat thereof are laid down in Title III of the Trade Expansion Act of 1962 and described in detail in COM.TD/H/3. The description identified the parties who could initiate an investigation, the body which carried out the investigation, which parties could present evidence and the factors that are taken into consideration when a finding is reached as to whether serious injury has occurred or is threatened.

47. The Trade Act of 1974, which superseded the Trade Expansion Act of 1962, effective 3 January 1975, makes certain changes in the tariff and trade adjustment provisions of the preceding legislation. These changes are described in detail below:

TITLE II. RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

Industry Import Relief (Title II, Ch. 1)

The Trade Act of 1974 makes major changes in the import relief measures provided in the Trade Expansion Act of 1962 for industries. Under prior law, increased imports must have been in major part the result of trade agreement concessions before import relief measures were undertaken; under the Trade Act, no link to concessions is required. Furthermore, under the Act, increased imports must only be a substantial cause of serious injury or the threat thereof ("substantial cause" is defined to mean a cause which is "important" and not less than any other cause) and no longer the major factor (generally assumed to mean a cause greater than all other causes combined) of such injury, as required by prior law. If the International Trade Commission finds that imports are a substantial cause of serious injury (or threat thereof) to an industry, the President is required, with certain exceptions to provide some form of import relief (duty increases, tariff-rate quotas, quantitative restrictions, orderly marketing agreements, or, under appropriate circumstances and upon a recommendation of the Commission, adjustment assistance). Under the Trade Act, the President can also choose not to provide import relief when he determines that it would not be in the national economic interest. However, if the Congress prefers the form of import relief proposed by the Commission to the relief provided by the Executive, or when the President determines not to provide import relief, a majority of those present and voting of both Houses can pass a resolution requiring the President to implement the relief recommended by the Commission.

48. Two other provisions of United States trade legislation also deal with the impact of imports on domestic producers and agricultural programmes administered by the United States Department of Agriculture. One, Section 22 of the Agricultural Adjustment Act, as amended, is described in detail in the Decision of 5 March 1955 granting a waiver to the United States in connexion with import restrictions imposed under Section 22 of the United States Agricultural Adjustment Act. The description identifies the parties who could initiate an investigation, the body which carries out the investigation, which parties could present evidence and the factors that are taken into consideration when a finding is reached.

49. The other is Section 204 of the Agricultural Act of 1956, under which the President may, whenever he determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries and the importation into the United States of any agricultural commodity or product manufactured therefrom or textiles or textile products, a copy of which is attached. Under Section 204 the President has customarily made determinations on the basis of study by the executive agencies advising on trade policy matters. While Section 204 does not prescribe procedures for its implementation, the executive agencies usually obtain the views of other interested parties, such as importers, and make a careful and critical analysis of various factors involved including the impact of imports on domestic production, sales, earnings and employment; the overall economic objectives of the United States; and United States foreign trade relations.

50. Venezuela. Domestic procedures are governed by the safeguard clauses of the Cartagena Agreement, Chapter IX, and the Montevideo Treaty, Chapter VI. Under the Cartagena Agreement, when safeguard actions are taken, prior authorization of the Regional Board should be obtained. The measures taken must be transitory and applied in a non-discriminatory way. The Board carries out periodic examinations. No safeguard actions are allowed for products falling under the intra-regional Industrial Development Plan. Chapter VI of the Montevideo Treaty lays down rules for the application of safeguards to products which originate in the zone (Andean countries). Inter alia, it requires that safeguards be used in emergency cases and on an ad referendum basis. The Treaty also lays down special provisions for agricultural products.

ANNEX

GATT/AIR/1128

8 NOVEMBER 1974

SUBJECT: QUESTIONNAIRE ON SAFEGUARD MEASURES AND PROCEDURES

1. AT ITS MEETING OF OCTOBER 1974, GROUP 3(d) - SAFEGUARDS REQUESTED THE SECRETARIAT TO PREPARE A FACTUAL NOTE ON EMERGENCY-TYPE ACTIONS IN THE WIDEST SENSE SETTING OUT:

- (a) THE MEASURES COUNTRIES TAKE TO PROTECT AGAINST SERIOUS INJURY OR THREAT OF SERIOUS INJURY;
- (b) THE INTERNATIONAL PROCEDURES OR ARRANGEMENTS OUTSIDE GATT, UNDER WHICH RESTRICTIVE MEASURES ARE APPLIED; AND
- (c) THE DOMESTIC PROCEDURES FOR HANDLING CASES OF SERIOUS INJURY OR THREAT OF SERIOUS INJURY (WHETHER ACTION IS TAKEN INTERNATIONALLY WITHIN GATT OR OUTSIDE GATT).

IT WAS POINTED OUT AT THE MEETING THAT ONLY LIMITED INFORMATION WAS AVAILABLE TO THE SECRETARIAT ON CERTAIN MATTERS AND IT WAS UNDERSTOOD THAT GOVERNMENTS MIGHT THEREFORE HAVE TO SUPPLY SOME OF THE INFORMATION REQUIRED (MTN/13, PARAGRAPH 16).

2. IN THE LIGHT OF THIS IT WOULD BE APPRECIATED IF GOVERNMENTS WOULD SUPPLY INFORMATION ON THE FOLLOWING QUESTIONS BY 15 DECEMBER 1974. TO THE EXTENT THAT INFORMATION HAS ALREADY BEEN NOTIFIED TO THE GATT, A REFERENCE TO THE RELEVANT DOCUMENT WILL SUFFICE. IT IS UNDERSTOOD THAT ANY EMERGENCY ACTION TAKEN UNDER ARTICLE XXVIII NEED NOT BE INCLUDED.

3. (a) HAVE THERE BEEN CASES DURING THE PAST FIVE YEARS IN WHICH IMPORTED GOODS (OTHER THAN TEXTILES) HAVE CAUSED, OR THREATENED TO CAUSE, OR CONTINUE TO CAUSE, SERIOUS INJURY TO DOMESTIC PRODUCERS OF PARTICULAR PRODUCTS IN YOUR COUNTRY? IF SO, GIVE THE PARTICULAR CIRCUMSTANCES OF EACH CASE, INCLUDING THE PRODUCTS INVOLVED, IF POSSIBLE IN TERMS OF THE BRUSSELS TARIFF NOMENCLATURE, AND ANY OTHER RELEVANT DATA. INDICATE IN PARTICULAR WHETHER THE SERIOUS INJURY OR THREAT THEREOF WAS DUE TO IMPORTS FROM CERTAIN SOURCES ONLY AND WHETHER THE PROBLEM WAS OF A SHORT-TERM OR A STRUCTURAL NATURE.

- (b) HAS YOUR GOVERNMENT IMPOSED OR MAINTAINED SPECIFIC MEASURES TO DEAL WITH CASES REFERRED TO IN (a)? IF SO, DESCRIBE THE MEASURES TAKEN IN EACH CASE AND WHETHER THESE TOOK THE FORM OF ACTION TO LIMIT IMPORTS OR ADJUSTMENT ASSISTANCE, OR BOTH. IF NO SPECIFIC MEASURES WERE TAKEN BY YOUR GOVERNMENT, HOW WAS THE PROBLEM RESOLVED? IN PARTICULAR, HAVE GOVERNMENTS OF EXPORTING COUNTRIES WHOSE PRODUCTS CAUSED OR THREATENED TO CAUSE SERIOUS INJURY TO YOUR DOMESTIC PRODUCERS LIMITED EXPORTS TO YOUR MARKET, OR HAVE NON-GOVERNMENTAL BODIES TO YOUR KNOWLEDGE TAKEN ACTION TO LIMIT SALES OF SUCH PRODUCTS ON YOUR MARKET? IF SO, DESCRIBE THE PARTICULAR ACTION TAKEN IN EACH CASE.
4. (a) HAVE EXPORTS OF YOUR COUNTRY BEEN SUBJECT DURING THE PAST FIVE YEARS TO RESTRICTIVE MEASURES IN OTHER COUNTRIES PARTICIPATING IN THE MULTILATERAL TRADE NEGOTIATIONS WHICH HAVE BEEN, OR APPEAR TO HAVE BEEN, IMPOSED OR MAINTAINED ON THE GROUNDS THAT SUCH EXPORTS CAUSED, OR THREATENED TO CAUSE, INJURY TO PRODUCERS IN THESE COUNTRIES? IF SO, DESCRIBE THE PARTICULAR CIRCUMSTANCES OF EACH CASE, INCLUDING THE PRODUCTS INVOLVED, AND THE ACTION TAKEN IN EACH CASE.
- (b) HAS YOUR GOVERNMENT TAKEN ANY ACTION TO LIMIT EXPORTS OF PARTICULAR PRODUCTS TO PARTICULAR MARKETS IN ORDER TO AVOID OR REMEDY THE DEVELOPMENT OF A SITUATION SUCH AS THAT DESCRIBED IN PARAGRAPH 3(a) IN THOSE MARKETS? IF SO, DESCRIBE THE PARTICULAR CIRCUMSTANCES OF EACH CASE, INCLUDING PRODUCTS AND MARKETS CONCERNED, DATA RELATING TO TRADE AND PRICES AND DURATION OF THE MEASURE. HAVE NON-GOVERNMENTAL BODIES IN YOUR COUNTRY TAKEN ACTION TO RESTRICT EXPORTS? IF SO, DESCRIBE THE PARTICULAR ACTION TAKEN IN EACH CASE.
5. DESCRIBE ANY INTERNATIONAL PROCEDURES OR ARRANGEMENTS OUTSIDE THE GATT WHETHER BILATERAL OR MULTILATERAL OR WHETHER GOVERNMENTAL OR NON-GOVERNMENTAL (OTHER THAN PROCEDURES LAID DOWN IN THE ARRANGEMENTS REGARDING INTERNATIONAL TRADE IN TEXTILES) UNDER WHICH MEASURES TO RESTRICT TRADE HAVE BEEN IMPOSED OR MAINTAINED DURING THE PAST FIVE YEARS:
- (a) TO REMEDY OR PREVENT SERIOUS INJURY TO DOMESTIC PRODUCERS IN YOUR COUNTRY, OR
- (b) TO REMEDY OR PREVENT SERIOUS INJURY WHICH IS SAID TO BE CAUSED, OR THREATENED BY EXPORTS FROM YOUR COUNTRY TO DOMESTIC PRODUCERS IN OTHER PARTICIPATING COUNTRIES.

6. DESCRIBE YOUR COUNTRY'S DOMESTIC PROCEDURES FOR HANDLING CASES IN WHICH IMPORTED GOODS CAUSE OR THREATEN TO CAUSE SERIOUS INJURY TO DOMESTIC PRODUCERS, INCLUDING BOTH PROCEDURES WHICH APPLY WHEN ACTION IS CONTEMPLATED WITHIN GATT AND OUTSIDE GATT. INDICATE IN PARTICULAR WHETHER THESE PROVISIONS ARE LAID DOWN IN LEGISLATION OR IN ADMINISTRATIVE DECISIONS, THE PARTIES WHO CAN INITIATE AN INVESTIGATION, THE BODY WHICH CARRIES OUT THE INVESTIGATION, WHICH PARTIES CAN PRESENT EVIDENCE AND THE FACTORS THAT ARE TAKEN INTO CONSIDERATION WHEN A FINDING IS REACHED AS TO WHETHER SERIOUS INJURY HAS OCCURRED OR IS THREATENING.

7. IT IS UNDERSTOOD THAT IN ADDITION THE SECRETARIAT WILL EXAMINE THE FEASIBILITY OF PROVIDING A SUMMARY OF EXISTING INFORMATION CONCERNING NON-TEMPORARY TYPE MEASURES TAKEN UNDER OTHER GATT SAFEGUARD PROVISIONS, INCLUDING MEASURES TAKEN UNDER ARTICLE XXVIII.

O. LONG