

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/SG/W/11  
16 July 1976

Special Distribution

Multilateral Trade Negotiations

Original: English

Group "Safeguards"

## UNITED STATES PROPOSAL FOR AN IMPROVED MULTILATERAL SAFEGUARD SYSTEM

The United States Government considers that the operation of the existing multilateral safeguard system can be improved significantly by the adoption of an international code supplementing Article XIX of the General Agreement on Tariffs and Trade, and by agreement of governments to certain additional obligations necessary for effective operation of the code. The code would embody a set of principles aimed at establishing a more orderly procedure in the application of safeguard measures. A major feature of such a code would be a constraint on retaliatory action against countries imposing safeguard measures when a proposed safeguard action meets certain specified criteria and conditions. There would be no obligation to provide compensation. Furthermore, the system would apply to voluntary restraint agreements and take into account the special needs of developing countries.

In this paper, the United States delegation presents for the consideration of the delegations of other governments a set of principles to govern the application of safeguard measures together with a proposal for the establishment of a body to oversee the implementation of an improved safeguard system. Attention is also drawn to a number of additional obligations which would be required in order to assure the effective and equitable operation of the mechanism created in the supplementary code. The United States delegation would be pleased to receive and consider proposals by other governments and hopes that the exchange of views on such proposals will provide the basis for the conclusion of an agreement leading to the establishment of an improved multilateral safeguard system.

Agreement on the proposed set of principles and new obligations would, the United States Government believes, assure greater uniformity in the application of safeguard measures and achieve a better balance than we now have of rights and obligations of contracting parties in the conduct of international trade under the General Agreement. Both uniformity and a better balance would be achieved by the new prescribed conditions governing the application of safeguard measures and extending the new code obligations to safeguard actions which governments now take outside the present GATT Article XIX system.

The proposed supplementary code would be designed to remedy several serious weaknesses which have become evident in the operation of the present GATT Article XIX safeguard system. These weaknesses include the lack of suitable specificity in the conditions for safeguard action; the reluctance of governments to use and adhere to the procedures of GATT Article XIX, apparently from concern that it would lead to trade disputes and retaliation or that they would be unable to offer adequate compensation; the lack of assurance that safeguard measures are being applied only when warranted and maintained only temporarily; the absence of international agreement to avoid the embargo or rollback of imports below representative trade levels; and the increasing tendency of governments to resort to special bilateral arrangements outside GATT Article XIX without adequate regard for the interests of third countries.

The code should embody the following features:

1. It should bring within the new system all types of measures, including voluntary export restraints, imposed to provide domestic industries with temporary relief from injurious import competition.<sup>1</sup>
2. When governments apply safeguard measures that are in conformity with the agreed criterion and conditions of the code, they would not be subject to retaliation, nor would there be any obligation for them to provide compensation. Non-compliance with the agreed criterion and conditions, however, could warrant retaliation.
3. The criterion for import relief measures would be an increase in imports of a product that is causing or threatening to cause serious injury to domestic producers of a like or directly competitive product.
4. There would be public domestic investigations and decisions on safeguard actions, including an examination by an independent body, public hearings where importers and other interested parties could present their views, and a published report of the decision.
5. The imposition of safeguard measures would have to conform to certain conditions:
  - (a) The duration of safeguard measures would be limited to a specified time-period.
  - (b) Import relief would not be reimposed unless a specified time-period had elapsed since the relief was terminated.

---

<sup>1</sup>This does not include measures dealing with subsidization or dumping.

- (c) Import relief would have to be phased down to the extent feasible during the period of such relief as a spur to progressive adjustment of the industry.
- (d) Any quantitative restrictions imposed would have to permit the importation of a quantity or value of the article which was not less than that imported into the country during the most recent representative period.
- (e) Safeguard actions should be accompanied by efforts of the domestic industry to adjust.

6. Governments would be required to give notification of the intent to impose import relief a specified number of days prior to taking such action, except in emergency situations.

7. Governments taking safeguard measures would be required to consult with countries having a trade interest affected by the measure, including countries potentially affected by trade diversion resulting from the imposition of such measures. Time-limits would be established for completion of the consultations.

8. The code would establish a standing committee, composed of several parties to the code, to facilitate the smooth functioning of the system. This monitoring committee might serve such functions as:

- (a) Receiving and distributing notifications of actions being taken.
- (b) Expediting arrangements for consultations if requested, including participation by third countries.
- (c) Providing advisory services, when requested, to help settle disputes.

9. Differences of opinion regarding the conformity of measures taken to the agreed criteria and conditions would usually be resolved in the consultation process. For cases where this was not possible, the monitoring committee would conduct an inquiry regarding the basis for the dispute and give recommendations to the parties involved. In connexion with any such inquiry, any party to the dispute could request review of the facts and application of code provisions to the case by an independent advisory body. The conclusions of the advisory body would be reported to the committee. Measures not conforming to agreed criteria and conditions could be subject to retaliation.

10. The new multilateral safeguard system should be designed normally to permit, in accordance with agreed criteria, continued market access with moderate growth for developing signatory countries which are small suppliers of a product with respect

to which safeguard action is taken. This provision would no longer be applicable to individual developing countries when they achieved a certain level of economic development.

In conjunction with the new safeguard mechanism created by the proposed code, the United States seeks agreement on a range of broader obligations necessary to establish the effective and equitable operation of that mechanism.

Some of the work on these broader obligations will be carried out in other MTN groups. It will be essential, however, that the obligations be accepted at least by signatories to the new safeguard code. These obligations are:

1. Governments should undertake an obligation to notify and consult in the GATT on all trade-restrictive actions, whether taken under Article XIX, under some other GATT Article, or outside the GATT. The rationale for the restriction and the specific GATT provisions being invoked should be identified.
2. Governments should agree to bind all their tariffs at the end of the MTN.
3. In order to provide increased tariff stability, governments should agree not to resort to the periodic "open season" provisions of Article XXVIII:1, nor reserve the right to do so under Article XXVIII:5, for renegotiation of tariff concessions. The procedures of paragraph 4 of Article XXVIII, which require GATT authorization, would continue to be available for such renegotiations.
4. Governments should agree to discourage enterprises, private as well as public, from pursuing policies and entering into agreements to restrain import competition.

The adequacy of the revised safeguard system outlined here would be dependent upon the outcome of other aspects of the MTN. At a later stage it would be necessary to examine the extent to which existing quantitative and other restrictions have been dealt with to see whether there is sufficient balance in rights and obligations to permit the safeguard system to operate equitably.