

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)
Negotiating Group on Safeguards

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PROPOSAL ON SAFEGUARDS

The following proposal, dated 6 October 1987, has been received from the delegation of Japan.

In accordance with the negotiating plan, Japan hereby submits a proposal on safeguards with a view to facilitating discussions in the negotiating group. This proposal is not the final one, nor does it prejudice the Japan's position in the future negotiations.

1. Transparency

It is necessary to secure transparency of all safeguard measures of each contracting party including relevant national legislation and procedures.

2. Coverage

(1) Measures

It is not necessary to limit the scope of available measures to tariff related measures; other measures should also be allowed.

(2) Product Coverage

All products.

3. Objective Criteria for Application

(1) Criteria in determining the Cause (injury)

The principal cause of serious injury or threat thereof must be "increase in imports"

(2) Factors and Indexes to be taken into account

Following economic factors and indexes relating to the state of the industrial sector concerned should be

taken into account in a comprehensive manner, when determining injury or the threat thereof:

output, turnover, inventories, market share, profits, domestic prices, value of export, employment, wages, utilization of capacity, productivity, investments, etc.

(3) Level of Restriction

(i) Level of restriction shall not be fixed in such a way as to totally ban the import. The level shall not be set below the average import level of the recent representative period prior to increase in imports.

(ii) It will be an idea to examine what, if anything, could be done to tariff-related measures with a view to setting a proper level of restriction.

(4) Decision to take action

It is inappropriate to subject the recourse to a safeguard measure to the authorization of Safeguard Committee (to be explained afterward).

4. Temporary Nature

In the light of emergent or temporal nature of safeguard measures, their application should be limited to certain period of time.

For example, following rules are to be considered.

(1) Initial period shall not exceed X years.

- (2) In cases where serious injury or the threat thereof continues to exist, the period may be extended subject to notification and consultations. In any case, however, the total period shall not exceed Y years.
- (3) Reintroduction shall be prohibited during certain period of time after termination of the said measure.

5. Degressivity

- (1) As for a measure of which implementation exceeds certain period of time, the party invoking the measure shall be obliged to progressively liberalize the measure.
- (2) An extended measure should be more liberalized in terms of the level of restriction compared to that of immediately before the extension.

6. Structural Adjustment

The implementation of structural adjustment should not be a prerequisite for the application of safeguard measures. (Structural adjustment should basically be accomplished through market mechanism)

7. Compensations and Retaliation

Japan's basic view in this regard is as follows:

- (1) The right to take retaliatory action as well as to request for compensations as provided for in

the existing articles or conducted as practice, respectively, should be maintained with a view to preventing the abuse of and to ensuring deterrence against safeguard measures.

(According to this view, there are merits of preventing and deterring a country from abusing safeguard measures, but on the other hand, it is made difficult to take legitimate safeguard measures due to the requirement of compensations.)

The compensatory requirement has been generally recognized though there is no provision in GATT which explicitly stipulates it. However, there is a different view that compensations should not necessarily be required if the concerned parties so agree.

(According to this view, the application of legitimate safeguard measures will be facilitated, but at the same time the danger of abuse will be increased.)

- (2) To place priority on compensation rather than on retaliation.

(This option could evade the curtailment of world trade as the result of safeguard measures,

but entails the same demerits as referred to
in (1).)

8. Notification and Consultations

(1) Notification

- o All safeguard measures shall be notified to the Contracting Parties X days prior to the implementation. (An extended measure shall be notified X days prior to the termination of the previous measure).
- o Prior notification shall be required also in case of critical circumstances ("emergency cases"), where delay would cause damage which it would be difficult to repair.
- o Notification should be made, where possible, in accordance with a unified elaborate format.

(2) Consultations

- o Consultations should be done basically prior to the recourse to a measure and shall commence within certain period (X days) from the time of the notification.
- o Consultations in "emergency cases" which is to be held after the measures are taken, shall commence within certain fixed period of time after application of the measure concerned.

9. Multilateral Surveillance and Dispute Settlement

(1) Multilateral Surveillance

Surveillance should be conducted periodically or upon requests of the parties concerned. To this end, existing Safeguard Committee should be reformed and reinforced (alternatively, a surveillance body should be established).

(2) Dispute Settlement

A subcommittee in charge of dispute settlement should be established under the Safeguard Committee. Dispute settlement should be basically sought in this subcommittee, which, however, shall not prejudice the rights of contracting parties to seek solution under Article XXII and XXIII (as in the case of Anti-dumping Code).