

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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

NEGOTIATING GROUP ON SAFEGUARDS
Meeting of 30 May and 1 June 1988

Note by the Secretariat

1. The Negotiating Group met on 30 May and 1 June 1988. The following paragraphs summarize statements made during the meeting. Efforts have been made to avoid reproducing points already contained in notes of previous meetings of the Group.

I. General

2. The spokesman for the European Community said that safeguards was a key element which could unblock negotiations in other fields in the Uruguay Round. It was a long-standing problem. The positions of various delegations were well known. However, the accent on certain aspects of the negotiations had changed slightly since 1982. Delegations should refine their contributions by bringing in more balance and by avoiding confrontations in the discussions. The success of the negotiations on safeguards depended on the Group's ability to collectively reconcile principles with reality and reality with principles.

3. The representative of Argentina stressed the importance Argentina attached to the progress in the safeguards negotiations and to finding common ground for the success of the mid-term meeting scheduled for December in Montreal. He said that Ministers had clearly stated that the negotiations of a safeguards agreement should be on the basis of the fundamental principles of the General Agreement. These terms of reference should be respected and clearly taken into account if the mid-term meeting was to live up to the expectations contracting parties had set themselves in the Uruguay Round. The full text of the statement by the representative of Argentina is contained in document MTN.GNG/NG9/W/17.

4. The representative of Norway introduced a proposal by the Nordic countries. The proposal is in document MTN.GNG/NG9/W/16.

5. The representative of Mexico introduced a proposal which is in document MTN.GNG/NG9/W/18.

6. The representative of Yugoslavia delivered a statement on its position on safeguards. The full text of the statement is in document MTN.GNG/NG9/W/19.

7. About a dozen delegations welcomed the Indian proposal which had been presented in the previous meeting in document MTN.GNG/NG9/W/15 as a useful and thoughtful paper. Most of them commented on specific points in that paper. Some asked questions and sought clarifications. The representative of India said that the responses to the Indian proposal reflected the sense of urgency and seriousness the Group attached to the negotiations on safeguards. He said that the Indian proposal was rather brief in the presentation of certain concepts and elements because they had been elaborated in other proposals. The concept of serious injury was one such example. India was in general agreement with the points made on serious injury in document MTN.GNG/NG9/W/4. As regards the extension of the Multifibre Arrangement, he clarified that the Negotiating Group on Textiles and Clothing was discussing the modality for integrating the textiles and clothing sectors into GATT. It did not address the question of the extension of the MFA, which was of obvious relevance to the work of the Group on Safeguards. In response to a specific question by a delegation, he confirmed that the Indian proposals concerning structural adjustment referred to measures at the border. He agreed with the statement by one representative that structural adjustment could take place most effectively when market forces were operating. Unfortunately, market forces were very often not allowed to operate freely. There was therefore a need for a comprehensive agreement with temporary nature of safeguard action and m.f.n. as basic elements, which could operate in three stages. The first was to prescribe a short and specific limit for safeguard actions. Then there was the possibility for extension which was subject to authorization by the Committee on Safeguards and accompanied by the implementation of domestic measures to induce structural adjustment. There was then a maximum time limit beyond which there would be no question of any further extension. His delegation was prepared to discuss further the question of the role of the Committee on Safeguards and other points in the Indian proposal at a future meeting.

II. Examination of individual specific elements

(a) "Serious injury"

8. One delegation said that to arrive at some commonly accepted objective criteria for the determination of serious injury might pose two technical problems. The first was the problem of economic analysis, i.e. how to determine the features of injury caused by imports. The second was the problem of statistical methodology, i.e. how to obtain the required quantitative information. It would be useful to establish, under the auspices of GATT, an international group of experts to work out the methodology for the determination of such criteria. The Group should present the results of its work to the Negotiating Group on Safeguards.

This would facilitate the work of surveillance on safeguard actions and would limit the disputes arising from such actions. This experts group could also recommend the time limit and degressivity of safeguard measures to contracting parties taking such measures.

9. One delegation said that an industry losing competitiveness would find any import injurious. Under such circumstances, measures to remedy the situation need not necessarily be taken at the border.

(b) "Temporary nature"

10. One representative said that there seemed to be no dispute that safeguard actions should be temporary. At issue was whether there should be a fixed time period for such actions. He favoured the idea of putting an outer-limit, to ensure that actions would not be prolonged indefinitely. The proposal that the total duration of a safeguard measure including any extension should not exceed five years was based on past experience. The five-year outer-limit covered more than 80 per cent of Article XIX actions invoked in the past.

11. One delegation said that safeguard measures taken at the border should logically be limited in duration. Another time limit which could be applied to such measures was that they could only be invoked within a certain period, for instance five years, following the entry into force of a new concession. To invoke an Article XIX action because of difficulties created by concessions made generations ago was an abusive use of the Article. Several delegations did not agree with this suggestion. They stated that Article XIX spoke not only of tariff concessions, but of "obligations --- including tariff concessions --- incurred under the General Agreement". There were numerous obligations arising from the General Agreement. Trade liberalization and market-opening efforts were examples of such obligations which could occur all the time. It was therefore inappropriate to stipulate that a country could invoke safeguard actions only within a certain period after a concession was made. One representative said that the suggestion was outside the bound of political reality.

12. One delegations said that the lack of fixed duration for Article XIX actions had led to some troubling abuses. According to the record compiled by the secretariat, there were Article XIX actions which dated back to 1958 and still in force. In such cases, there was clearly not much incentive for firms to adjust. It was imperative that strict disciplines be established on the duration of measures, and that there was a maximum time-limit in order to promote adjustment. It was not easy to set an absolute limitation because there might be situations where an industry was able to adjust quickly and therefore a shorter period was appropriate, or there might be situations where an industry might need a much longer period to adjust. Nevertheless, there should always be a maximum period, otherwise safeguard actions would last indefinitely. Based on the experience of his country, the usual duration provided for import relief measures was in the range of

three to five years. The maximum duration for which these measures might be extended was another three years. It could be concluded that in the most extreme circumstances, the maximum amount of total relief would be eight years. This delegation concurred with the suggestion that all extensions of safeguard actions had to be reviewed or analysed by a GATT committee. However, that committee would have no power to authorize the extension because that power should rest with the government concerned.

13. The representative of a group of delegations said that he was not unsympathetic to the idea of putting specific deadlines to safeguard actions. What worried him was the tendency for the maximum limit to become the standard limit. Thus, one should retain some flexibility. A delegation said that in the light of the product life cycle of most goods becoming increasingly short, it was desirable to introduce a short time limit, for example a maximum period of five years including extensions, for safeguard actions. Another delegation said that due account should be taken of the existing Article XIX actions when discussing the maximum duration for safeguard measures. It would be useful to understand why certain Article XIX actions had been in force for such a long period of time. There should be possibilities for extensions if they were clearly indispensable. To avoid repeated actions on the same product, it was necessary to examine the feasibility of introducing provisions prohibiting the re-invocation of safeguard measures with respect to products which had been the subject of safeguard measures within a preceding period of time. The spokesman for a group of delegations said that in order to encourage the use of measures on a temporary basis, certain incentives should be provided within the General Agreement. One possibility was to have different provisions to deal with actions with a limited duration and those going beyond a time-limit.

14. One representative remarked that the suggestion to fix a time period for safeguard actions and to allow for their extension had received general acceptance. There was also broad agreement that extensions should be exceptions rather than the rule and hence conditions for the extensions should be strict. He noted that existing grey-area measures not brought into conformity with the new rules would be eliminated under a two-year programme. There was great danger in the "grandfathering" of such measures.

(c) "Degressivity"

15. One representative said that the main question was how to put into effect the concept of "degressivity" which was generally agreed by the Group. His view was that strict discipline had to be established to allow a progressive return to the normal conditions of trade. These included a progressive liberalization of the measures and an appropriate programme of structural adjustment. Another representative supported the above statement and said that a progressive elimination of the safeguard measure with strict penalty for non-compliance were likely to be the most effective discipline to encourage the use of Article XIX and at the same time to prevent the abusive use of the Article.

16. One representative said that he endorsed the concept of degressivity, or a programme of phase-out of import relief. Degressivity should be in-built, especially for measures lasting for a few years. It should promote adjustment and prepare firms for their full re-entry into the market.

17. The spokesman for a group of delegations said that it was quite clear that the concept of degressivity had a different relevance for short-term measures than for those which were applied for a longer period of time. One delegation said that when the application of a measure exceeded a certain period of time, the party invoking such a measure should be obliged to progressively liberalize the measure. If the measure was extended, then the extended measures should be more liberal in terms of the level of restriction than the measure which was taken before.

III. Future work and date of next meeting

18. The Chairman said that the Group should have an opportunity at its next meeting to address in greater depth the proposals by the Nordic countries and Mexico, or any other proposal received from members of the Group. It should also examine the question of domestic adjustment assistance measures and other specific elements like compensation and retaliation, notification and consultation, and related issues. In view of the mid-term meeting in December, it was also his intention to start in July some collective stock-taking of the stage reached in the work of the Group.

19. It was agreed that the next meeting of the Group should be held during the week beginning 11 July 1988, and that a further meeting should take place during the week beginning 26 September 1988.