

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG9/W/29
31 January 1990

Special Distribution

Original: French

Group of Negotiations on Goods (GATT)

Negotiating Group on Safeguards

COMMUNICATION FROM THE EUROPEAN COMMUNITIES

SAFEGUARDS REGIME APPLICABLE IN SPECIAL CIRCUMSTANCES

INTRODUCTION

In the communication it submitted in June, the Community pointed out that when negotiating a safeguards agreement, it would be unrealistic to rule out the possibility of taking selective action which would be accompanied by adequate guarantees for exporting countries. Such action would be justified when a sudden increase in imports from a limited number of suppliers was causing serious injury. In its communication the Community put forward the view that it would be in the objective interest of both importing and exporting countries to agree on a specific remedy designed especially for the situation. In this supplementary contribution, the Community develops its ideas on the modalities which could apply to selective action.

I. INTERIM PRECAUTIONARY ACTION

1. If, in the course of an investigation to determine injury, the authorities of the importing country, on the basis of the information available to them, reach the provisional conclusion that a given product is being imported under such conditions that a large increase in imports, primarily due to certain identified sources, is causing serious injury to domestic producers of like or directly competitive products, they shall request the authorities of such supplier countries for immediate consultations. The purpose of these consultations - which must be held within ten working days - is to examine the situation with the supplier countries concerned in order to reach agreement. If the parties fail to reach agreement, the authorities of the importing country may nevertheless, following the consultations and as an interim precautionary measure, restrict imports from those supplier countries.

2. The authorities of the importing country shall promptly notify the Safeguards Committee concerning the application and nature of the interim precautionary safeguard measures.

3. The interim precautionary safeguard measures shall be proportional to the injury and may in principle be maintained until the conclusion of the injury investigation. However, they shall be removed after a maximum period of eight months if the investigation has not been completed within a shorter period.

4. The consultations provided for in paragraph 1 above shall be pursued at the request of the parties concerned as from the introduction of the interim precautionary safeguard measures.

5. Countries injured by the precautionary measures taken by the importing country shall be free to suspend the application to the trade of that country of substantially equivalent concessions or other obligations.

II. FINAL ACTION

A. Action where serious injury is established

6. If, at the conclusion of the investigation, it is established that the product concerned is being imported in such circumstances that the large increase in imports primarily due to certain identified sources is causing serious injury to domestic producers of like or directly competitive products, the authorities of the importing country may apply safeguard measures proportional to the injury incurred against only some of the supplier countries. Before applying them, however, they shall enter into consultations with the supplier countries concerned.

7. In the consultations, the parties shall endeavour to reach agreement with a view to minimizing the effect of the restrictions taken under these provisions on the trade of the supplier countries.

In the absence of an agreement, countries injured by the safeguard measures shall be free to suspend the application to the trade of the party taking such action of substantially equivalent concessions or other obligations.

8. These safeguard measures may be applied for a maximum period of 'y' months.

9. Action taken under the provisions of this special safeguard régime may in no case be extended under the same régime when the above-mentioned time-limit has been reached. The period during which the interim precautionary safeguard action was applied shall be fully taken into account in the above maximum period.

10. During the period of application of the special safeguard measures, imports of the product in question from suppliers not affected by the restrictions shall be monitored by the authorities of the importing country.

If it appears that such imports are increasing significantly, the exporting countries to which the safeguard measures are applied may, on grounds of fairness, request the extension of the restrictions to other suppliers.

B. Action where serious injury is not established

11. If, at the conclusion of an injury investigation, it appears that the product concerned is being imported in such circumstances that the large rise in imports, primarily due to certain identified sources, is not causing serious injury in the conditions defined above, the importing country shall forthwith remove the interim precautionary restrictive measures.

III. RELATIONSHIP WITH OTHER SAFEGUARD PROVISIONS

12. Where safeguard action taken under this special régime is maintained on the basis of the general provisions of this agreement, the period of application of the measures taken under the special régime shall be fully taken into account in the maximum period for the application of safeguard measures authorized under the general provisions of this agreement.

IV. RESPONSIBILITIES OF THE SAFEGUARDS COMMITTEE
WITH REGARD TO THIS SECTION

13. The Safeguards Committee shall monitor compliance with the specific obligations of the special safeguards régime, including compliance with any undertakings entered into during consultations/N.B. - to be elaborated in the context of the examination of the general section on multilateral surveillance/.