GROUP "SAFEGUARDS"

Main Points Raised in the Meeting of November 1975 on the Application of Multilateral Safeguard Systems

At the meeting in November 1975 of the Group "Safeguards", it was suggested that in order to assist delegations of developing countries, the secretariat should prepare a note containing the main suggestions and proposals put forward, the information so compiled being made available to delegations of developing countries taking part in the Multilateral Trade Negotiations within the framework of technical assistance.

The details contained hereunder should be read in conjunction with the Chairman's summing-up of the meeting (document MTN/SG/3). Although the secretariat has attempted to identify participating countries which made suggestions and proposals in the course of the meeting, it may be noted that the information is provided without prejudice to the views or negotiating position of any delegation. Furthermore, the summary may not fully reflect the precise proposals of any participant nor may it reflect the nuances and explanations given in respect of any particular aspect of the discussions on the multilateral safeguard system.

To facilitate reference, the various suggestions and proposals put forward by one or more delegations have been listed as far as possible under the check list of questions contained in paragraph 6 of MTN/SG/2.

(a) What are the implications for the work of the Group of the fact that actions are frequently taken under a number of Articles of the GATT other than Article XIX and sometimes taken even outside the GATT, and that action taken has not always been transparent (i.e. known to all)?
Different implications were drawn from the fact that actions were often taken under Articles other than Article XIX.

It was a general feeling that Article XIX should be improved.

Some delegations\(^1\) said that the Article was basically adequate, but that the procedures under the Article should be improved, e.g. with regard to surveillance.

Some delegations\(^2\) said that some of the principles on which the Article was based might need to be reviewed, e.g. the most-favoured-nation principle.

Some delegations\(^3\) said that at this stage the Group should concentrate on Article XIX. Others\(^4\) concluded that the Group should deal with other GATT Articles as well as practices not presently covered by GATT Articles.

Delegations from developing countries urged that differential treatment should be granted to them according to the provisions laid down in Article XXXVII. Attention was drawn to alternative actions including adjustment assistance as provided for in paragraph 3 of that Article. Experience showed the need for more precise rules and strengthened discipline in the whole field of safeguards.

Comments were made on safeguard measures taken outside the GATT. Some delegations\(^5\) said that, as a minimum, full information should be obtained about such measures. It was suggested\(^6\) that an examination be carried out of the motivations of countries which took safeguard measures outside the GATT.

Some delegations\(^7\) said that some countries insulate certain domestic industries so that the need to take safeguard actions does not arise. They said that efforts should be made to ensure at least transparency with regard to the comparable degree of vulnerability of markets to competition, and called for the orderly development and expansion of the whole field of trade. Some other delegations\(^8\) thought this matter might not be solved within the mandate of this Group.

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1 Japan, Hong Kong
2 EEC, Nordic
3 EEC, Japan, Nordic
4 United States, Australia
5 Australia, New Zealand
6 Canada, Switzerland
7 Australia, New Zealand
8 EEC
The Group agreed to have a further, more detailed exploration of this agenda item at its next meeting with a view to clarifying the relationship of a more satisfactory system to the wide range of current safeguard practices, and the consequences for the work programme of the Group. The question of a comparable footing of commitments should also be reverted to.

(b) Is there need for greater precision in the criteria for invocation of the safeguard clause, including the terms "cause serious injury" and "threaten serious injury"?

A number of delegations\(^1\) said that there was a need for greater precision in the criteria for invocation of the safeguard clause, and especially that the terms "serious injury" and "threat of serious injury" should be clarified. Considerable importance was attached to the safeguarding of access and the need for a clearer causal link between imports and the concept of serious injury.\(^2\) Some delegations\(^3\) thought that the lack of precise criteria created uncertainty for authorities in importing countries with regard to possible international reactions to Article XIX safeguards, hence a reluctance to use Article XIX. Some delegations\(^4\) stressed, in particular, that more precise criteria might bring about more uniform application and reduce the possibilities of escaping its discipline.

While some delegations\(^5\) said that these terms should be defined in terms of quantifiable criteria, many delegations\(^6\) suggested that a check list of factors might be drawn up which would be used when determining whether serious injury was caused or threatened. Several sources and elements for such a check list were suggested.

Delegations from developing countries supported the need for greater precision and objectivity in the criteria. They emphasized that this was an area in which differential treatment should be granted to them and that such treatment should be built into any check list or quantifiable criteria that was established. They recalled the specific proposals which had been on the table for some time (MTN/3D/5). Some of these delegations thought it useful to discuss the relationship between Article XIX and Article XXXVII.

Some delegations\(^7\) questioned whether refinement of the criteria in Article XIX would result in a more effective or uniform safeguard system. The point was made by some delegations that by and large the bulk of measures had been taken outside Article XIX either because of criteria or for reasons other than the existence of criteria.

\(^1\)Canada, Japan, European Communities, New Zealand
\(^2\)Canada
\(^3\)The European Communities
\(^4\)New Zealand, Austria
\(^5\)Nigeria, Spain
\(^6\)Japan, Korea, India, Hong Kong, Jamaica, Australia
\(^7\)Australia, United States, Switzerland
It was also stressed that any criteria should be applied to all types of safeguard action and to trade in all products. If importing countries accepted more precise criteria, exporting countries might be expected to undertake additional obligations.

The question was also raised as to who should decide whether or not the criteria had been met and safeguard action could be taken. Some delegations said that ultimately this rested with the importing country concerned. Some delegations supported the concept of an international surveillance mechanism. Some delegations linked the precision of criteria to the modalities of surveillance. One delegation said that an open information procedure was the most important question in this field.

The Group agreed to revert to the question of criteria for invocation of safeguard measures at its next meeting.

(c) Is it necessary to strengthen the mechanism for notification or prior notification and consultation and to introduce periodic reporting procedures?

Concerning mechanisms for notification and consultation, some delegations said that the existing provisions of Article XIX were, or might be, adequate but that some countries did not follow the procedures laid down. One delegation thought that too strong requirements might complicate the use of Article XIX in an emergency situation. Some delegations said that it was necessary to strengthen or to explore the strengthening of the mechanisms and to ensure uniformity in their application.

Some delegations said, however, that notification, consultation as well as periodic reporting were part of the surveillance context in general and should be taken up in more detail when discussing criteria, procedures and the role of international supervision as such. Some countries stressed the particular need for prior consultation in cases of restrictions on imports from developing countries. It was suggested that such prior consultations should be held with

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1 Australia
2 Australia, Hong Kong
3 Japan, Hong Kong
4 Nordic, Switzerland, Australia
5 United States
6 Canada, Nordic
7 Australia
8 United States, developing countries
9 EEC, Japan, Nordic
10 EEC, Nordic, Argentina, Nigeria
11 Nigeria, India, Argentina
12 India, Argentina
the view (i) to assess whether exceptional and compelling circumstances existed, (ii) to consider alternative solutions and (iii) to determine adequate compensation. One delegation suggested that prior consultation might be made mandatory in cases where serious injury was merely "threatened".

A proposal was made that the content of notifications should be discussed by the Group. The Group agreed to have such a discussion at its next meeting.

Some delegations supported the establishment of a periodic reporting procedure or some time-to-time review. It was suggested that this might also relate to imports subject to national surveillance.

Some delegations thought further reflection was needed. The Group agreed to come back to the question of periodic reporting at its next meeting.

(d) Should there be greater precision for criteria with regard to "critical circumstances" in which prior consultation is not required?

Some delegations expressed doubt on the possibility of arriving at an internationally agreed definition of "critical circumstances". Some referred the question to the general context of surveillance. Others said that "critical circumstances" needed greater precision and that special treatment of developing countries was called for in this respect.

(e) Is it necessary or desirable to fix a minimum level for imports, to fix definite time-limits and also to agree on a concept of degressivity for safeguard action?

Some delegations stressed the complexity of the question of fixed minimum levels of imports and voiced no definite opinion at this stage. One delegation favoured the principle of taking absolute levels in a reference period as basis, though exceptions might be needed. Among factors mentioned in this respect were peculiarities in business cycles, "excess" actions to avoid rigorous rules, very rapid increases in imports, seasonal...
factors\textsuperscript{1}, falling domestic demand.\textsuperscript{2} Some thought these questions perhaps ought to be settled on a case-by-case basis in the framework of international scrutiny.\textsuperscript{3} Some questions could also be dealt with in prior consultations.\textsuperscript{4} Some delegations supported minimum levels and said that the legitimate interests of exporting countries and the objective of securing access should in all cases be taken into account. Some delegations\textsuperscript{5} were of the opinion that there should, in no cases, be reductions of imports, at least not from developing countries. There should also be provisions for a growth factor. Some delegations mentioned particularly the need for, \textit{inter alia}, practicability combined with uniformity\textsuperscript{7}, orderly expansion of trade\textsuperscript{8}, a relationship between safeguards and the general level of commitments undertaken\textsuperscript{9}, maintenance of equilibrium in markets\textsuperscript{9} or in rights and obligations.\textsuperscript{10}

Some delegations\textsuperscript{11} regarded the lack of a fixed time-limit as an important deficiency in a safeguard clause for emergency purposes. It was proposed to fix a time-limit, the extension of which should be established only through consultations with affected countries as authorized by a multilateral body.\textsuperscript{12} A suggestion was made that derogations from standard procedures perhaps could be decided in a surveillance context.\textsuperscript{13} Others stressed in particular the need for taking characteristics of each case into account; time-limits should therefore be set through consultation and negotiation.\textsuperscript{15} It was also proposed that if measures

\textsuperscript{1} Japan, Hong Kong
\textsuperscript{2} Australia
\textsuperscript{3} Switzerland, Hong Kong
\textsuperscript{4} India
\textsuperscript{5} Canada, Hong Kong
\textsuperscript{6} Hong Kong, Uruguay, India
\textsuperscript{7} Switzerland
\textsuperscript{8} New Zealand, United States, Hong Kong
\textsuperscript{9} Australia, Switzerland
\textsuperscript{10} Canada
\textsuperscript{11} India, Hong Kong, Japan, Israel, Argentina, Spain
\textsuperscript{12} India
\textsuperscript{13} Switzerland
\textsuperscript{14} Australia, Israel
\textsuperscript{15} Israel
were taken after or beyond the time-limit, this should be done under the provisions laid down in Article XXVIII.\(^1\) Mention was also made of the need for securing temporary application and adjustments to fair competition without elaborating or proposing strict limits.\(^2\) It was suggested that Article XIX would be appropriate for short-term actions only and that the question of time-limits was almost irrelevant.\(^3\)

Some delegations\(^4\) advocated degressivity or said it would probably be appropriate.\(^5\) The view was expressed that degressivity should not be set in a purely bilateral framework.\(^6\) Some delegations thought degressivity should not necessarily be required always\(^7\) and that practical compromises would often have to be found.

Some delegations exchanged views on how to treat cases where tariff increases and not quantitative measures were introduced. It was argued that the question of minimum levels would not arise in such cases\(^8\); others thought the consultation and surveillance procedures should ensure the right to access also under these circumstances.\(^9\) Tariff quotas might in such instances ensure differential treatment for developing countries, some delegations suggested.\(^9\) Other delegations, presuming an emergency situation, believed in pragmatic solutions\(^10\), whereby the case itself would determine either increases in unbound terms, renegotiations of bound items or quantitative measures.\(^11\) According to this view\(^11\), the purpose should be to relate the measures imposed to the commitments undertaken.

\(^1\) Israel
\(^2\) United States
\(^3\) Canada
\(^4\) Argentina, Spain, Japan, India
\(^5\) United States
\(^6\) Japan
\(^7\) Australia, Spain
\(^8\) United States
\(^9\) Hong Kong, India
\(^10\) Australia, Switzerland
\(^11\) Australia
Many delegations saw a link between the above issues and the broader questions of criteria, procedures and surveillance, adjustment measures, reorientation of resources and the distinction between short-term measures and long-term structural policies.\(^1\)

The Group agreed to continue to discuss the definition of minimum level of imports, time-limits and degressivity at its next meeting.

(f) Should the existence of a domestic adjustment programme be a prior condition for action?

Some delegations, though recognizing a relationship, saw no mandatory link between the questions of Article XIX measures and adjustment assistance. The concept of emergency was the only condition under which safeguards could be justified. It was not appropriate, therefore, to make the existence of domestic adjustment programmes a precondition for action\(^2\), although it might be useful to encourage countries to take such measures.\(^3\) When structural problems arose in a safeguard context, these should be dealt with through the use of domestic measures or GATT articles, other than Article XIX.\(^4\) Some delegations pointed to the fact that adjustment assistance was not only taken in the context of a governmental programme\(^5\), neither would it be appropriate always.\(^6\) Moreover, governmental actions would often require funds and procedures which made it difficult to tackle emergency situations.\(^7\)

It was suggested that a main element in a safeguards system should be readjustment to fair competition\(^8\) or an easing of the way towards abolishing safeguard action.\(^9\) The question of safeguards could, therefore, rather be seen in

\(^1\) Spain, Argentina, United States, Israel, India, Canada, Hong Kong, Japan, Switzerland

\(^2\) Canada, Nordic, Japan, Switzerland, EEC

\(^3\) Nordic, Japan, United States

\(^4\) Canada, EEC, United States

\(^5\) United States, Austria, Japan, Switzerland

\(^6\) Japan, EEC, United States

\(^7\) Japan

\(^8\) United States

\(^9\) Australia, Hong Kong, EEC
the context of consultations and multilateral surveillance. A proposal was made that the importing country could explain the prevailing state of the industry and the functioning of adjustment programmes, if any. For example under a periodic reporting system.

Some delegations observed a relationship from the fact that Article XIX, as it now stood, had in practice justified measures of a rather long-term nature. It was, therefore, logical that countries facing problems, often of non-economic and mostly social reasons, should refrain from safeguard actions and instead provide for domestic adjustment and reallocation of resources. A point was made that a safeguard measure could not be an emergency action unless adjustment programmes were introduced at least simultaneously. Some delegations linked the question of adjustment assistance to that of retaliation and compensation. Reference was made to the high vulnerability of exporting industries in developing countries, making the concept of trade competition less relevant compared with the situation prevailing between industries in industrialized countries. The subject of adjustment - if not necessarily always a precondition for safeguards - should be seen in the context of the need to avoid a freezing of structures in the international division of labour as between industrialized and developing countries.

Some delegations said that adjustment assistance programmes would not necessarily aim at a reduction in domestic production but might also have the scope of preventing emergency situations through making industries more efficient. Others said that if safeguard actions became a more permanent feature, there should be a commitment to transfer resources to other economic activities. Domestic measures should in such cases facilitate increased imports, and not have the purpose of rendering industries more competitive. One delegation stated that safeguard actions should not be taken in a manner to prevent or retard domestic adjustment, but on the contrary, to facilitate it.

1 Australia, Hong Kong, EEC
2 United States
3 Uruguay, Argentina, India
4 India
5 Hong Kong
6 Hong Kong, Uruguay, Nigeria
7 Spain, Nigeria
8 Australia, Japan
9 India, Nigeria, Uruguay
10 Hong Kong
The Group agreed to come back to the possible link between adjustment programmes and safeguards at its next meeting.

(g) In what circumstances are retaliation or compensation appropriate?

Some delegations said that the question of retaliation and compensation should be discussed in a broader framework. Various factors were mentioned such as criteria for justifying safeguards, the durability of safeguards, adjustment measures, the functioning of notification and surveillance procedures and institutional powers.

Some delegations felt that measures justified under rules and procedures should never lead to compensation or retaliation. Another delegation thought that improved rules and procedures, depending on the content, might offer a basis for dispensing with retaliation or compensation.

Some delegations regarded the right to retaliation and compensation as often rather academic; it was also said that it would in practice tend to be replaced by modifications in the safeguard measures. However, in the view of some delegations, the present rights might serve as a deterrent against abuse and should be retained. The point was made that retaliation served as a final guarantee and that compensation in fact flowed therefrom. The existence of the theoretical retaliation right, rather than its invocation, was important. Others thought that retaliation and compensation might lead countries to take actions outside Article XIX, or might tend to give permanence to actions.

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1 EEC, Nordic, Canada, United States, Hong Kong
2 Hong Kong, Switzerland, Canada
3 Hong Kong, EEC
4 EEC, Canada, Nordic
5 Nordic, United States, EEC, Canada
6 United States
7 Uruguay, EEC
8 EEC, Japan
9 Japan, Hong Kong
10 Japan, Hong Kong, EEC
11 United States
Some delegations said that proportional compensation in cases of injury to developing countries should be included in any agreement on Article XIX.\(^1\) It was proposed that compensation should be assessed by an impartial body.\(^2\)

(h) Should Article XIX action continue to be applied on a most-favoured-nation basis?

Some delegations\(^3\) said that the most-favoured-nation principle was fundamental for the GATT, for a stable and orderly development of trade, and served in particular the interests of smaller and new trading partners. Among factors mentioned were: the non-discriminatory rule would have a moderating effect on importing countries contemplating safeguards\(^4\); the source of an emergency situation was often not imports but the domestic demand itself\(^5\); moreover, this demand often covered a range of consumer preferences and possibilities as well as product and price variations within a single tariff heading making selectivity arbitrary and unfair\(^6\); selectivity would create vested interests and a danger of increased retaliation\(^7\); selectivity could serve as a disincentive for investments in developing countries\(^8\); would tend to escalate restrictions and create broader uncertainty\(^9\); and create serious inequalities or inefficiencies in the whole trading system.\(^10\)

Other delegations favoured a selective approach.\(^11\) Among factors mentioned were: non-selectivity might lead to countries to take actions outside Article XIX and even outside the GATT\(^12\); safeguards should not be more severe than the situation itself\(^13\); selectivity would preserve the results of liberalization as

\(^1\) Uruguay, Spain
\(^2\) Nigeria
\(^3\) Australia, Japan, Hong Kong, Switzerland, Canada, Korea, Hungary
\(^4\) Australia, Japan
\(^5\) Australia, Japan
\(^6\) Australia
\(^7\) Korea, Hong Kong
\(^8\) Hong Kong
\(^9\) Japan, Hong Kong
\(^10\) Australia, Hong Kong
\(^11\) Nordic, EEC, Austria, Spain, India, Brazil, Andean Group
\(^12\) Austria
\(^13\) Nordic
most-favoured-nation treatment might mean a full embargo on imports; the same treatment of all suppliers would endanger the need of equity; the concept of differential treatment for developing countries was in itself a selective approach. The special needs for differential treatment of least-developed countries in this field was also taken up.

There were different opinions on the relevance of the Textile Agreement to the work of the group.

In the view of some delegations, selectivity was linked to the question of degressivity, consultation and surveillance, and should be discussed when these issues had been settled.

Some delegations said that safeguarding methods should be found, by which special treatment would be ensured without sacrificing the most-favoured-nation principle. One delegation, seeing merits in both approaches, proposed to define instances for selectivity and for most-favoured-nation application.

The Group agreed to resume its discussion of selectivity or most-favoured-nation treatment at its next meeting.

(i) How can differential measures for developing countries, as envisaged in the Tokyo Declaration and in pursuance of the objectives of Part IV of the General Agreement, be provided in this area? Should all developing countries be automatically exempted from safeguard action taken by developed countries?

The Group exchanged views on how to provide differential treatment for developing countries in the area of safeguards. The question was also discussed under the other points in the list.

1. Austria
2. Spain, Uruguay, India
3. Brazil, Romania
4. Nigeria, EEC
5. EEC, Brazil, Canada
6. Switzerland, Hong Kong, Hungary
7. Yugoslavia
Some delegations from industrialized countries said that Article XVIII could be invoked for differential treatment in many instances. An automatic exemption under Article XIX for imports from developing countries was not feasible. The possibilities should be found in precise injury criteria and a flexible application of the rules as such. Exemptions or other forms of differential treatment might be possible under specified conditions. Noting the proposals contained in MTN/3D/5, one delegation suggested that the views it was expressing on, e.g., time-limits, domestic adjustment, degressivity, burden sharing, treatment of new exporters and domestic procedures in an improved safeguard system, indicated even at this preliminary stage that some of its ideas might be in consonance with those of some developing countries.

Delegations from developing countries said that the general rule should be automatic exemption from safeguard action in industrialized countries for imports from developing countries. Some mentioned the definition and flexible use of criteria such as the injury concept as the key to this end. In particular, the importance of having a growth element - and at least no reduction - in imports from these countries was stressed. Reference was made to the proposals in document MTN/3D/5 and to the provisions of Part IV of the General Agreement, which - in the view of countries making this reference - should be reinforced. The view was also expressed that a multilateral surveillance body should take into consideration special measures for developing countries. One delegation said it would make written proposals about criteria and rules to govern such a body with respect to such special procedures and measures (see also point (j) below). It was also suggested that the particular situation of the least developed countries should be reflected in the rules and their application.

The Group agreed that when it discussed the points agreed upon for the next meeting in April 1976, the question of differential treatment for developing countries should in each case be borne in mind.

(j) Should there be multilateral surveillance?

The Group invited the secretariat to draw up for the next meeting, a factual survey of international surveillance systems as referred to in MTN/SG/W/6.

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1. EEC
2. EEC, United States
3. EEC
4. United States
5. Argentina, Mexico, Romania, Brazil
6. Mexico, Romania, Nigeria, Brazil
7. Argentina
8. India, Nigeria, Brazil, Argentina
9. Mexico
10. Nigeria
Delegations were in general favourably inclined towards the introduction of some form of multilateral surveillance. Some delegations\(^1\) said, however, that whatever the extent and nature of such surveillance, countries' rights concerning the pursuance of domestic economic policy goals could not be interfered with. The system should, moreover, cover all sorts of safeguard actions\(^2\), inside or outside the framework of Article XIX. One delegation said that the matter greatly depended on in which form and for which areas surveillance was introduced.\(^3\) One delegation\(^4\) said that it would very carefully approach any notion that additional provisions for surveillance should go beyond the established pattern of the GATT. Reference was made to the rights of the CONTRACTING PARTIES under such Articles as XXII:2, XXIII:2 and XXV:1. They called for a pragmatic approach, saying that surveillance in the GATT would often be a more subtle question than in other fora, partly due to the concrete and real commitments undertaken. Some delegations\(^5\) cautioned against the interpretation of surveillance and suggested that the relevance of the international surveillance systems selected for the survey, to the surveillance looked at in the safeguard context remained an open question.

Some delegations intervened on what they saw as the functions of a surveillance body. Unequal stress was put on its various tasks and powers, inter alia, those mentioned in paragraph 2 of MTN/SG/W/6. The question was linked to a variety of elements discussed under other points on the agenda. Among those mentioned were assessment of injury, consultations, review of time-limits, assistance measures, assessment of compensation, balance of obligations, burden sharing, securing of developing countries', third countries' and new exporters' interests, dispute settlement etc.

(k) What mechanism should there be, if any, for the settlement of disputes and for arbitration?

The Group invited the secretariat to draw up a factual study on dispute settlement, setting out the history of this question in the GATT and identifying alternative approaches used in other international bodies in the commercial policy field. While proposing such a study, some said that the normal settlement of disputes had been found in GATT provisions such as Articles XXII and XXIII. If a departure through a separate mechanism was being envisaged, the importance of such a departure to other areas of the multilateral trade negotiations should be borne in mind.\(^6\)

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\(^1\) Australia, New Zealand, Canada  
\(^2\) Australia, New Zealand  
\(^3\) Japan, United States  
\(^4\) Australia  
\(^5\) Australia, United States, Japan  
\(^6\) United States
(1) Is there a lack of balance of obligations between importing and exporting countries?

The question of balance of obligations between exporting and importing countries was taken up by some delegations. One delegation\(^1\) said that the approach to this question should be a discussion of the variety of causes - beyond the sudden influx of imports - that might give rise to emergency situations. At a later stage in the negotiations, the Group might wish to examine more fully the role also of the exporters and the tasks that might be assigned to them under an improved safeguards system.

Another delegation\(^2\) compared the measures which were at the importing countries' disposal with the means available to exporting countries, and stated that the present situation appeared to favour the interests of importing countries. In connexion with this matter, Article XXXVII was also referred to.

Some delegations\(^3\) thought this question might be referred to a surveillance body. Some said that it was important that all countries got their information and views made known.

(m) Should there be provision for burden sharing among importing countries?

Some delegations thought this question was relevant to the notion of equal footing of commitments, and one\(^5\) said it might be particularly important for new exporters' marketing possibilities and for an orderly expansion of trade.

Some delegations\(^6\) said remedies should be found to the disequilibrium stemming from the fact that some importing countries acted outside Article XIX more often than others.

The point was made that burden sharing should be discussed because it might reduce the need for safeguard actions.

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\(^{1}\) Australia

\(^{2}\) Romania

\(^{3}\) EEC

\(^{4}\) Nordic

\(^{5}\) Australia

\(^{6}\) United States, Australia

\(^{7}\) Nordic
The Group agreed to revert to the question of burden sharing at its next meeting. As mentioned under point (a) above, the Group also agreed then to discuss the question of comparable footing of commitments.

(n) How should the interests of third countries and new exporters be taken into account?

The points were made that safeguard action might divert exports of third countries in which case both these countries and importing countries affected by the diversion to their markets should have the full right to participate in consultations. The same right might be extended to new exporters when quantitative controls were imposed. It would be difficult to identify whether new exporters were being seriously disturbed under procedures linking the assessments to data for earlier periods.

Some countries thought this question could be assigned to a supervisory body.

(o) Is there a need to distinguish between short and long-term problems?

The question of short and long-term problems were to a great extent dealt with under other items, particularly item (f) above.

There was a general feeling that a distinction should be made between short and long-term problems.

Some countries said that Article XIX should be reviewed with a view to avoiding emergency actions being taken for medium and long-term structural adjustment goals. Such goals should, according to some countries, be pursued through domestic measures and through the invocation of Articles other than Article XIX. Some delegations referred to the proposals set out in MTN/3D/5.

The Group agreed to return to the distinction between short and long-term problems at its next meeting.

(p) Is there a need for future guidelines for domestic procedures to be followed prior to safeguard action?

The question of domestic procedures was commented upon by some delegations. One delegation, referring to the fact that few countries provided for public procedures, thought that future guidelines might be useful in strengthening, inter alia, the consultation and information-sharing process. Another delegation

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1 United States
2 EEC
3 United States
4 Japan
did not see uniform guidelines for domestic procedures appropriate, as the
important thing rather was how to have known international rules effectively
reflected through the various national rules and procedures. Another delegation
thought it useful to discuss the possible effects of public hearings. Under this
sub-heading one delegation raised the problem that restrictions in some countries
would tend to affect imports, whereas in others they would tend to be addressed
to the sources of imports.  

1 Canada
2 Spain