The Nordic countries are of the opinion that the basic conditions set out in Article XIX, i.e. the existence of serious injury or threat thereof as a condition for the invocation of safeguard measures, should be maintained. The injury or threat thereof should also be connected with the development of imports; thus there must be a causal relationship between injury and imports.

An increase in imports cannot constitute an absolute condition for the right to invoke safeguard measures. The assessment whether the industry concerned has suffered serious injury or is subject to a threat thereof should be based on an examination of all relevant factors having a bearing on the state of the industry in question. The Nordic countries believe it would be useful to discuss - with a view to reaching an agreement - a number of indicative factors, e.g. in the form of a "checklist", to serve as guidelines when examining and assessing cases of serious injury or threat thereof and in the determination of the direction, the scope and the application of safeguard measures. A number of factors indicating the existence of injury are enumerated in Article 3(b) of the Anti-Dumping Code and in paragraph I of Annex A to the MFA. In addition to this, special attention should in the Nordic view be given to factors such as the composition of domestic production and imports as well as the special problems which may exist for countries having small markets and high degree of import penetration. A careful examination should, however, be made of what factors are acceptable as indicators of serious injury or threat thereof under Article XIX of GATT.

Because every case of serious injury or threat thereof presents its own particular features, any checklist can only be of an indicative nature and factors other than those enumerated in a checklist could be taken into account.
Retaliation, compensation

The right to retaliation or compensation should be carefully discussed in our work in the Safeguard Group. Having in mind the general aim of avoiding interference in the normal development of trade the Nordic countries find it reasonable that retaliatory action should not be taken in cases where serious injury or threat thereof has been established in accordance with the criteria and procedures governing the invocation of Article XIX and the safeguard measures are found to be warranted. On the other hand there may be other cases where retaliation cannot be avoided.

As to compensation the provisions of Article XIX do neither contain the granting of nor the request for compensation. We find this logical.

Adjustment assistance

As the Nordic countries have already pointed out in negotiations a requirement for a concrete adjustment assistance programme as an absolute precondition for the invocation of safeguard provisions would be very difficult to accept. An effective implementation of safeguard measures often requires quick action which cannot be dependent on the existence of such a special programme. Furthermore, there may be cases where the external disturbance is of a short term or extraordinary nature not justifying structural changes in the production pattern of the importing country. It cannot be precluded that measures taken in the exporting country could contribute to the possibilities of abolishing the safeguard measures invoked in the importing country. Due to differences between various countries identical requirements for all countries with respect to adjustment programmes are not, in our opinion, realistic.

We recognize, however, that measures affecting foreign trade should be limited to the extent and for such time that is necessary to prevent or remedy the injury. An objective should therefore be to assist workers and enterprises in overcoming their difficulties, thus preventing or remedying the injury and facilitating the discontinuation of the safeguard action. The policies the importing country intends to pursue in the particular case, could be discussed, among the other things, within the framework of consultations.

Types of measures

As was pointed out under the heading "Criteria, conditions" each case of serious injury or threat thereof caused by imports has its own particular features, even if many cases present similarities. Therefore the required action should be tailored to cope with each particular case of injury or threat thereof in a way
that meets the needs of the importing country while causing the least possible disturbance to international trade. In other words the choice of measures should not be a priori limited and the governments should be free to use the most appropriate measures, e.g. quantitative restrictions, customs duties, equalization levies or price related charges. The present formulation of Article XIX would not need further elaboration.

Modalities of application

As was pointed out above, one principal objective of an improved safeguard system should be to minimize the disturbances such measures inevitably create for international trade. Safeguard action should to the least possible extent affect the trade liberalization which has been obtained in GATT.

Therefore measures taken to safeguard domestic producers against serious injury or threat thereof should be permitted only against imports that have such effects. On the one hand all imports causing serious injury or threat thereof in any particular case should be subject to safeguard action and equal treatment in accordance with the principle of non-discrimination. On the other hand imports which are not found to cause serious injury or threat thereof should not be subject to safeguard measures. Such an application of safeguard measures would only distinguish between injurious and non-injurious imports without discrimination as to the origin of the imports.

In such cases, however, where the injurious imports cannot be distinguished from other imports the possibility of applying safeguard measures globally should be retained.

Domestic procedures

The procedures for investigating cases of serious injury to domestic producers or threat thereof vary from country to country. Differences may exist regarding the authorities competent for investigating cases of serious injury or threat thereof and deciding on safeguard measures, the investigation procedure, the degree of publicity etc. This is due to differences in legislation and to different practices and traditions.

The investigation procedure may also be influenced by the particular features of individual cases, in addition to the factors outlined above. Such particular features may be the degree of urgency, the nature of and the reasons for the injury or threat thereof etc.

This variety of factors, which are relevant for the investigation and decision making would make it difficult to adopt procedures uniform for all countries.