ARTICLE XIX

EMERGENCY ACTION ON IMPORTS OF PARTICULAR PRODUCTS

I. TEXT OF ARTICLE XIX

Article XIX

Emergency Action on Imports of Particular Products

1. (*a*) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to

prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

(*b*) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a contracting party in the circumstances set forth in sub-paragraph (*a*) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a contracting party which receives or received such preference, the importing contracting party shall be free, if that other contracting party so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the CONTRACTING PARTIES as far in advance as may be practicable and shall afford the CONTRACTING PARTIES and those contracting parties having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. When such notice is given in relation to a concession with respect to a preference, the notice shall name the contracting party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

3. (*a*) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1 (*b*) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

(*b*) Notwithstanding the provisions of sub-paragraph (*a*) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting party to the domestic producers of products affected by the action, that contracting party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such concessions or other obligations as may be necessary to prevent or remedy the injury.

II. INTERPRETATION AND APPLICATION OF ARTICLE XIX

A. SCOPE AND APPLICATION OF ARTICLE XIX

1. Paragraphs 1 and 2

A Working Party in 1950-51 on "Withdrawal by the United States of a Tariff Concession under Article XIX of the General Agreement" examined the complaint of Czechoslovakia that the United States, in withdrawing a concession on women's fur felt hats and hat bodies, had failed to fulfil the requirements of Article XIX. The Report of the Working Party notes that

> "In attempting to appraise whether the requirements of Article XIX had been fulfilled, the Working Party examined separately each of the conditions which qualify the exercise of the right to suspend an obligation or to withdraw or modify a concession under that Article.

"Three sets of conditions have to be fulfilled:

"(a) There should be an abnormal development in the imports of the product in question in the sense that:

"(i) the product in question must be imported in increased quantities;

"(ii) the increased imports must be the result of unforeseen developments and of the effect of the tariff concession; and

"(iii) the imports must enter in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products.

"(b) The suspension of an obligation or the withdrawal or modification of a concession must be limited to the extent and the time necessary to prevent or remedy the injury caused or threatened.

"(c) The contracting party taking action under Article XIX must give notice in writing to the CONTRACTING PARTIES before taking action. It must also give an opportunity to contracting parties substantially interested and to the CONTRACTING PARTIES to consult with it. As a rule consultation should take place before the action is taken, but in critical circumstances consultation may take place immediately after the measure is taken provisionally".[1]

Legislation of acceding governments implementing Article XIX ("safeguards legislation") has been a subject of examination in certain recent accession negotiations. In the reports of the accession working parties concerned, members of the accession working party generally have not deemed the absence of a serious injury requirement in such legislation, or the complete absence of such legislation, to be as such inconsistent with the General Agreement. The acceding governments have generally confirmed their intention to abide by the provisions of Article XIX in any instance of application of measures under Article XIX.[2]

(1) "as a result of unforeseen developments"

The members of the Working Party cited above on "Withdrawal by the United States of a Tariff Concession under Article XIX", except for the United States, agreed

"that the term 'unforeseen development' should be interpreted to mean developments occurring after the negotiation of the relevant tariff concession which it would not be reasonable to expect that the negotiators of the country making the concession could and should have foreseen at the time when the concession was negotiated".[3]

The same Working Party also agreed "that the fact that hat styles had changed did not constitute an 'unforeseen development' within the meaning of Article XIX"[4], but that the effects of the special circumstances of this case, "and particularly the degree to which the change in fashion affected the competitive situation, could not reasonably be expected to have been foreseen by the United States authorities in 1947, and that the condition of Article XIX that the increase in imports must be due to unforeseen developments and to the effect of the tariff concessions can therefore be considered to have been fulfilled".[5]

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[1]GATT/CP/106, report adopted on 22 October 1951, GATT/CP.6/SR.19, Sales No. GATT/1951-3.

[2]See Working Party Reports on accessions of Bolivia, L/6542, adopted on 19 July 1989, 36S/9, 19-20, para. 29; Costa Rica, L/6589, adopted on 7 November 1989, 36S/26, 38-39, paras. 47, 49; El Salvador, L/6771, adopted on 12 December 1990, 37S/9, 22-23, paras. 40-41; Guatemala, L/6770, adopted on 6 February 1991, 38S/3, 12, paras. 33-34; Tunisia, L/6277, adopted on 12 December 1990, 37S/30, 38, para. 31.

[3]GATT/CP/106, report adopted on 22 October 1951, GATT/CP.6/SR.19, Sales No. GATT/1951-3, p. 10, para. 9.

[4]*Ibid*., p. 12, para. 11.

[5]*Ibid*., p. 13, para. 12.

(2) "being imported ... in such increased quantities"

In discussions concerning Article 40 of the Charter (the Article corresponding to Article XIX) during the Havana Conference, it was agreed to insert the word "relatively" between "such" and "increased", "so as to make it clear that Article 40 could apply in cases where imports had increased relatively to domestic production, even though there might not have been an absolute increase in imports as compared with a previous base period".[6] The Working Party on "Modifications to the General Agreement", which met directly after the Havana Conference, considered amendment of Article XIX to conform to this wording but decided not to do so, on the basis that "It was also the understanding of the Working Party that the phrase 'being imported ... in such increased quantities' in paragraph 1(a) of Article XIX was intended to cover cases where imports may have increased relatively, as made clear in Article 40, paragraph 1(a), of the Havana Charter".[7]

(3) "cause or threaten serious injury to domestic producers ... of like or directly competitive products"

The Working Party Report on "Report on the Withdrawal by the United States of a Tariff Concession under Article XIX" notes that "the statistics bearing on the relation between imports and domestic production up to mid-1950 show a large and rapidly increasing volume of imports, while at the same time domestic production decreased or remained stationary. On the whole, therefore, they constitute evidence of some weight in favour of the view that there was a threat of serious injury to the United States industry".[8] However, the Working Party also pointed out that

> "To sum up, the available data support the view that increased imports had caused or threatened some adverse effect to United States producers. Whether such a degree of adverse effect should be considered to amount to 'serious injury' is another question, on which the data cannot be said to point convincingly in either direction, and any view on which is essentially a matter of economic and social judgment involving a considerable subjective element. In this connection it may be observed that the Working Party naturally could not have the facilities available to the United States authorities for examining interested parties and independent witnesses from the United States hat-making areas, and for forming judgments on the basis of such examination. Further, it is perhaps inevitable that governments should on occasion lend greater weight to the difficulties or fears of their domestic producers than would any international body, and that they may feel it necessary on social grounds, e.g. because of lack of alternative employment in the localities concerned, to afford a high degree of protection to individual industries which in terms of cost of production are not economic. Moreover, the United States is not called upon to prove conclusively that the degree of injury caused or threatened in this case must be regarded as serious; since the question under consideration is whether or not they are in breach of Article XIX, they are entitled to the benefit of any reasonable doubt. No facts have been advanced which provide any convincing evidence that it would be unreasonable to regard the adverse effects on the domestic industry concerned as a result of increased imports as amounting to serious injury or a threat thereof; and the facts as a whole certainly tend to show that some degree of adverse effect has been caused or threatened. It must be concluded, therefore, that the Czechoslovak Delegation has failed to establish that no serious injury has been sustained or threatened".[9]

(4) "in respect of such product"

A Secretariat Note of 1978 on "Modalities of Application of Article XIX" notes that Article 29 of the US Draft Charter, on "Emergency Action on Imports of Particular Products" made no reference to the question whether it was intended to be applied on a most-favoured-nation basis or not. However, this Note indicates that an United States internal memorandum gave the following information regarding the historical background for the United States draft:

> "These relevant provisions (of Article XIX) follow closely in substance those in the first detailed escape clause, contained in Article XI of the 1942 trade agreement with Mexico ... At the time the United States was putting escape clauses comparable to Article XIX into bilateral trade agreements and was proposing

[6]Havana Reports, p. 83, para. 11.
[7]II/39, 43-44, para. 30.
[8]GATT/CP/106, report adopted on 22 October 1951, GATT/CP.6/SR.19, Sales No. GATT/1951-3, p. 21, para. 26.
[9]*Ibid.*, p. 22-23, para. 30.

> the multilateral negotiation of comparable language it had no authority to take action under such a clause in other than a non-discriminatory manner and therefore must have contemplated its non-discriminatory use".[10]

The Report of the Havana Conference Sub-Committee D on Articles 40, 41 and 43 of the Charter makes the following comment concerning discussions at Havana:

> "The Sub-Committee was unanimous in its understanding of this Article that action taken by Members under paragraphs 1(a), 1(b) and 3(b) - as distinct from paragraph 3(a) - should not involve any discrimination against the trade of any Member. As the Geneva text might leave room for doubts on this point, it was felt that this intention, as interpreted by the Sub-Committee, should be expressly stated in the Charter. The Sub-Committee decided therefore to recommend that this interpretation be embodied in a footnote attached to the Article and forming part of the Charter".[11]

Accordingly the Sub-Committee proposed the following Interpretative Note to Article 40, the Article corresponding to Article XIX of the General Agreement:

> "It is understood that any suspension, withdrawal or modification under paragraphs 1(a), 1(b) and 3(b) must not discriminate against imports from any Member country".

In the discussion of the Report of Sub-Committee D in Committee III of the Havana Conference, the deletion of this footnote was requested on the basis that "the application of Article 40 would in many cases be discriminatory and the footnote might create a chain of withdrawals of concessions". In reply it was stated that "the intention of the Article was set forth in the footnote. Paragraph 3(a) offered counteraction against emergency actions; the phrase 'to the trade of the Member' showed a discriminatory characteristic not evident in the other paragraphs ... the general intent of Article 40 was to provide time to rectify possible miscalculations of a concession. Since concessions were negotiated on a non-discriminatory and most-favoured-nation basis, their withdrawal should also be on that basis ... The intent of the footnote was that any action, except that taken under paragraph 3(a), should be in conformity with the most-favoured-nation concept".[12] The footnote was further examined by a working party which added the phrase, "and that such action should avoid, to the fullest extent possible, injury to other supplying Member countries"[13]; this Note was included in the Charter. However, it was not among those Charter changes which were brought into the General Agreement in 1948.

(a) Non-discriminatory invocation of Article XIX

The "Report on the Accession of Japan" of the Ad-Hoc Committee on Agenda and Intersessional Business in 1953 mentioned the views of contracting parties that "emergency action under Article XIX would have to be non-discriminatory and would thus have to be applied to the trade of all contracting parties, including those which were in no way responsible for the circumstances requiring redress".[14] A suggestion to add an additional clause to Article XIX permitting a discriminatory application of safeguard measures in case of "serious disruption of trade conditions" was rejected.[15]

During the Review Session of 1954-55, Denmark, Norway and Sweden proposed to add a new paragraph at the end of Article XIX on the lines of the Charter Interpretative Note, concerning non-discriminatory invocation of Article XIX. The records indicate that as this proposal did not meet with the general approval of Sub-Group B of Working Party II, it was withdrawn. The Sub-Group considered both this and another Scandinavian proposal to be unnecessary.[16]

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[10]L/4679, p. 1, para. 4.
[11]Havana Reports p. 82, para. 9.
[12]E.CONF.2/C.3/SR.32, p. 2-3.
[13]E/CONF.2/C.3/49; approval by Committee III without comment at E/CONF.2/C.3/SR.34, p. 7.
[14]L/76, adopted on 13 February 1953, p. 2, para. 6.
[15]*Ibid.*, para. 7.
[16]W.9/193, p. 13.

In an informal note of 26 May 1964 on the "Rationale for Dealing with Market Disruption through the Application of Article XIX", the Executive Secretary stated, *inter alia*:

> "There can be no serious question that the intention of the drafters of Article XIX was that action ... should be of a non-discriminatory character. This indeed is a logical counterpart of the provisions of Article I and Article XIII. This is also borne out by the legislative history and both practice and theory since the drafting of the Article. ... The fact, however, that it was necessary to record this understanding in the legislative proceedings also suggests, however, that the language itself is not conclusive".[17]

In the same Note, the Executive Secretary suggested:

> "as worthy of examination ... to place upon the existing provisions of Article XIX an interpretation which I think they can bear ... and which would in carefully defined circumstances entitle an importing country to protective measures which would be restricted in application to imports from a supplying country which were in fact creating the disruptive situation. It could be argued that the situation results from a combination of the increase of the particular exports in question from the particular source, and the obligation to refrain from discriminatory measures to remedy the situation. If so it would reasonably follow that the obligation regarding non-discrimination could be suspended within the existing language of Article XIX ...".[18]

This interpretation was, however, contested and did not meet with approval.[19]

A Secretariat Note of 1978 on "Modalities of Application of Article XIX" states: "In view of the fact that emergency actions under Article XIX are to be taken in respect of 'such product' and not in respect of individual contracting parties, the indication is that Article I applies."[20]

During the discussion in the Council in March 1978 concerning the EEC's invocation of Article XIX with respect to measures on imports into the United Kingdom of television sets from Korea, "a large number of representatives ... spoke on the matter and expressed the opinion that Article XIX did not provide for the discriminatory application of measures to limit potentially disruptive imports. They considered the measures in question to be clearly inconsistent with GATT provisions. Some delegations expressed serious concern about the use of Article XIX on a selective basis, in particular when this was done in a manner discriminating against a developing country".[21]

The 1980 Panel on "Norway - Restrictions on Imports of Certain Textile Products" examined an Article XIX action by Norway, which consisted of introduction of global quotas on nine textile items. Imports from the EEC and EFTA countries were not subject to these quotas, nor were imports from six developing textile exporting countries with which Norway had concluded bilateral arrangements. The size of the global quotas was calculated on the basis of average imports in 1974-76 from the countries included in the quotas; the quotas were allocated to importers but not allocated by supplier country. The Panel Report provides: "The Panel was of the view that the type of action chosen by Norway, i.e. the quantitative restrictions limiting the importation of the nine textile categories in question, as the form of emergency action under Article XIX was subject to the provisions of Article XIII which provides for non-discriminatory administration of quantitative restrictions. ... The Panel was of the view that to the extent that Norway had acted with effect to allocate import quotas for these products to six countries but had failed to allocate a share to Hong Kong, its Article XIX action was not consistent with Article XIII".[22]

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[17] L/4679, Annex 2, p. 47-48.
[18] *Ibid*.
[19] L/4679, p. 7.
[20] L/4679, p. 11, para. 35.
[21] C/M/124 p. 19. The 1978 Secretariat Note on "Modalities of Application of Article XIX" states that "This case is the only one in the history of the GATT in which Article XIX action has unilaterally been taken on a discriminatory basis with regard to a single source of supply in a transparent manner." (L/4679 p. 14). The EEC action was revoked after conclusion of a voluntary export restraint arrangement as from 22 June 1979; C/M/134, L/4613/Add.1.
[22] L/4959, adopted on 18 June 1980, 27S/119, 125-126, paras. 14, 16. See further under Article XIII.

(b) Price discrimination

The 1978 Note by the GATT Secretariat on "Modalities of Application of Article XIX" notes that

> "A number of actions of a quantitative and tariff-type nature have been linked to the price of the products concerned. In practice, such measures, although applied on a global basis, may have been selective in their application to one or a limited number of countries. In the current ten-year period, ten such instances have been notified, compared to eight during the preceding twenty years. Some of these measures took the form of special customs valuation methods levied for imports at lower prices during a short agricultural or horticultural season. In addition to these measures, there were a few cases in the earlier years where specific duties or surtaxes were replaced by ad valorem rates".[23]

In Council discussion of a 1977 Article XIX action by Finland imposing a surcharge on imports of tights below a basic price, the representative of Singapore noted that Article XIX referred to "any product" and stated that this action was aimed at low-cost suppliers in developing countries. The representative of Finland stated that the measure was fully in accordance with Article XIX.[24]

During discussion in the Committee on Trade and Development in March 1983 of a Canadian Article XIX action on leather footwear, which exempted footwear above a certain value, it was stated that "This price discrimination was not only contrary to the letter and spirit of Article XIX, but also established a dangerous precedent, and had an adverse effect on the export interests of developing countries. … The representative of Canada stated that in the view of his authorities, the Article XIX action referred to … was consistent with the relevant provisions of the General Agreement, and the price discrimination element in the action did not constitute a new precedent under the GATT". Several other contracting parties expressed concern at the price-discriminatory use of Article XIX and stated that they regarded a discrimination between suppliers, either geographically or on the basis of prices, as an infringement of GATT rules.[25] Canada's Article XIX action on imports of footwear was discussed again in the GATT Council meeting in March 1985. Concern was expressed at "Canada's application of price breaks in the context of this Article XIX action. Such devices could produce such a narrow and selective definition of source that the action could no longer be said to be truly non-discriminatory. This would appear to conflict with the fundamental principles of the General Agreement".[26]

(5) "to the extent and for such time as may be necessary"

(a) Extent of action under Article XIX

The 1951 Report of the Working Party on the "Withdrawal by the United States of a Tariff Concession under Article XIX" noted that

> "the Czechoslovak representative questioned whether the substantial increase in rates of duty involved in the withdrawal were necessary to prevent or remedy the alleged injury and whether the re-establishment of prohibitive duties to enable an uneconomic industry to prolong its existence was consistent with the purposes of the General Agreement. The other members of the Working Party considered that it is impossible to determine in advance with any degree of precision the level of import duty necessary to enable the United States industry to compete with overseas suppliers in the current competitive conditions of the United States market, and that it would be desirable that the position be reviewed by the United States from time to time in the light of experience of the actual effect of the higher import duties now in force on the economic position of the United States industry".[27]

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[23]L/4679, para. 45.
[24]C/M/119 p. 21-22.
[25]COM.TD/114, p. 10, paras. 41-43.
[26]C/M/186, p.5.
[27]GATT/CP/106, report adopted on 22 October 1951, GATT/CP.6/SR.19, Sales No. GATT/1951-3, p. 24-25, para. 34-35.

(b) Duration of action under Article XIX

At the 1946 London Preparatory Conference it was stated during the course of the discussion of Article 29, the draft Article corresponding to Article XIX, that "the Article provided only for a temporary relaxation of commitments, not for a permanent revision".[28] It was also stated that "the general purpose of Article 29 is to deal with an emergency situation. In general you would expect that it would be short-term, but it does not necessarily have to be under the terms of the Article".[29]

The 1951 Report of the Working Party on the "Withdrawal by the United States of a Tariff Concession under Article XIX" concluded that

> "action under Article XIX is essentially of an emergency character and should be of limited duration. A government taking action under that Article should keep the position under review and be prepared to reconsider the matter as soon as this action is no longer necessary to prevent or remedy a serious injury. In the case under review events which have occurred after it was decided to raise the duties would indicate that it would be desirable for the United States Government to follow the trends of consumption, production and imports in the following months with a view to restoring the concession on hat bodies in whole or in part if and as soon as it becomes clear that its continued complete withdrawal cannot reasonably be maintained to be permissible under Article XIX".[30]

It was also stated that Article XIX required that the original tariff concessions should be wholly or partially restored "if and as soon as the United States industry is in a position to compete with imported supplies without the support of the higher rates of import duty".[31]

The 1984 Report on "Safeguards" by the Chairman of the Council states, *inter alia*:

> "There is a convergence of views that safeguard actions are not intended to protect domestic producers for an unlimited period of time. Safeguard actions are emergency measures which should therefore be temporary by definition and progressively liberalized during the period of their application, unless they are maintained for such a short time as to make this impractical".[32]

(c) "to suspend the obligation in whole or in part or to withdraw or modify the concession": Nature of action under Article XIX

The Report of the Havana Conference Sub-Committee on Articles 40, 41 and 43 notes: "The question was raised whether, in taking action under paragraph 1 of Article 40 [which corresponded to GATT Article XIX], Members would be limited to the reimposition of measures which had been in effect prior to the entry into force of the Charter. It was agreed that the text as drafted does not limit the measures which Members might take".[33]

A 1987 Secretariat Note on "Drafting History of Article XIX and its Place in GATT" notes that tariff measures notified under Article XIX have included increases in specific duties, increases in ad valorem duties, surcharges, surtaxes, imposition of a minimum value for duty, increases in compound duties, compensatory taxes, tariff quotas, and imposition of surtaxes and charges on products imported below a minimum price. Non-tariff measures that have been notified include outright embargoes and bans on import licences, global quotas, discretionary licensing, import deposit schemes, import authorization and other import restrictions. A few actions have involved both tariff and non-tariff measures. During the period 1950-59, actions taken were predominantly tariff measures (80 per cent). The next ten-year period saw a rise in the use of non-tariff measures (45 per cent) and in the period 1970-79 non-tariff measures constituted the

[28]EPCT/C.II/38, p.5.
[29]EPCT/C.II/QR/PV/5, p.77.
[30]GATT/CP/106, report adopted on 22 October 1951, GATT/CP.6/SR.19, Sales No. GATT/1951-3, p. 29-30, para. 50.
[31]*Ibid.*, p. 26 para. 38.
[32]MDF/4, 31S/136, 137, para. 7.
[33]Havana Reports, p. 83, para. 10.

majority (70 per cent) of all actions invoked. For the 1980-87 period the share of tariff and non-tariff measures was about equal.[34]

At the 1946 London Preparatory Conference, it was stated that "Language has been inserted in paragraph (1) ... which makes it clear that members invoking the Article may withdraw or modify concessions in respect of preferences as well as concessions in respect of tariffs and obligations regarding quantitative restrictions, etc.".[35] Individual schemes of preferences for developing countries have provided for certain safeguard mechanisms under which the preference-giving countries have reserved the right to withdraw preferences if they deem it necessary.[36]

(7) Paragraph 1(b)

The purpose of this paragraph was explained at the London Preparatory Conference as follows: "... this right of withdrawal or modification will extend to cases where a country's trade is injured by reason of the loss in whole or in part of a preference which it previously enjoyed in another market".[37]

(8) "shall give notice in writing to the CONTRACTING PARTIES"

The 1951 Report of the Working Party on the "Withdrawal by the United States of a Tariff Concession under Article XIX" examined also the conformity of the United States actions with the notice and consultation requirements of Article XIX, and noted, "In this connection the Working Party wishes to draw the attention of the CONTRACTING PARTIES to the desirability of delaying, as far as practicable, the release of any public announcement on any proposed action under Article XIX, as a premature disclosure to the public would make it difficult for the government proposing to take action to take fully into consideration the representations made by other contracting parties in the course of consultations".[38]

After a discussion on notification of Article XIX actions, including whether such actions could be notified by countries other than those taking them, at its April 1981 meeting the Committee on Safeguards agreed, *inter alia*, on the following conclusion:

> "3. All actions taken under Article XIX, and to the extent possible, other actions which serve the same purpose will be notified to the CONTRACTING PARTIES. In addition, it will be open to contracting parties to bring up any matter in accordance with the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance".[39]

Lists of Article XIX actions notified to the Secretariat appear in the following notes:

- Factual Note on Safeguards prepared by the Secretariat in 1973.[40]
- Study on "Emergency type actions in the widest sense" prepared by the Secretariat in 1975.[41]
- Secretariat Note of 5 July 1978 on "Modalities of Application of Article XIX", including a table of Article XIX actions.[42]
- Secretariat Note of 26 March 1982, including a revised and updated list of measures taken since 1978 and notified under Article XIX, as well as of "grey-area" measures.[43]

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[34]MTN.GNG/NG9/W/7, dated 16 September 1987, p. 4.
[35]London Report, p. 10, para. 3(b)(i).
[36]COM.IND/W/88/Rev.1, Annex C.
[37]EPCT/C.II/PV/12, p. 12.
[38]GATT/CP/106, report adopted on 22 October 1951, GATT/CP.6/SR.19, Sales No. GATT/1951-3, para. 46.
[39]L/5151, paras. 20-28.
[40]COM.IND/W/88/Rev.1, dated 18 January 1973.
[41]MTN/SG/W/1.
[42]L/4679.
[43]Spec(82)18 and Rev.1-Rev.3 (through 22 May 1984).

– Background Note by the Secretariat prepared in 1987 including an "Inventory of Article XIX Actions and other Measures which Appear to Serve the Same Purpose".[44]

A table of Article XIX actions notified to the Secretariat up to October 1993 appears at the end of this chapter.

(9) "in critical circumstances"

At the Havana Conference, it was decided to substitute the words "in circumstances of special urgency" for "in critical circumstances" as a clarifying change.[45] However, this was not among those Charter changes which were brought into the General Agreement in 1948.

In practice, the provision that in critical circumstances action may be taken provisionally without prior consultation has been applied in a large number of cases.[46]

2. Paragraph 3

(1) "If agreement among the interested contracting parties with respect to the action is not reached"

With reference to import restrictions under Article XIX applied by Australia on motor vehicles and on footwear which had been in effect since 1974/75 (with some interruption in the application of the restrictions on motor vehicles), the European Communities, in 1982, notified the intention to suspend tariff concessions granted by the Community on selected imports from Australia "in accordance with the procedures of paragraph 3(a) of Article XIX".[47] Australia then requested that a meeting of the Council be convened within thirty days of the Communities' notification "in order to discharge the responsibility of the CONTRACTING PARTIES under paragraph 3(a) of Article XIX of the General Agreement".

In February 1982, Australia requested the Council to disapprove the proposed action (see at page 526 below). During the discussion on this matter the representative of the EEC stated that "The Community recognized Australia's right to invoke the provisions of Article XIX. At the same time, it considered that the entire procedure provided for under Article XIX should be followed, which included the offer of compensation. ... He pointed out that there was no requirement that there be a prior agreement between the parties in order for the affected party to take action under Article XIX. He said that the element of agreement concerned the compensation, and that if there were no agreement on this issue, the affected party was free to take retaliatory action as provided for in Article XIX, unless the CONTRACTING PARTIES disapproved".[48] The Australian representative agreed that "there was no need for a prior agreement for the type of action contemplated by the Community".[49]

The Report in 1984 by the Chairman of the Council to the Fortieth Session on "Safeguards" noted that:

> "There is a convergence of views that contracting parties should retain the right given to them in the General Agreement to re-establish the balance of rights and obligations under the Agreement if this is significantly modified. At the same time, it is recognized that the right to retaliate can, in practice, be used more effectively by some contracting parties than others. There is furthermore a convergence of views that the threat of retaliation could have a deterrent effect against the application of safeguard actions; the possibility of retaliation could also promote agreement on compensation. There is, at the same time, a recognition that retaliatory action has trade disruptive effects. The conclusion that many participants draw is that, wherever possible, constructive settlements should be reached involving compensation rather than the retaliatory withdrawal of benefits ...".[50]

[44]MTN.GNG/NG9/W/2/Rev.1 and Corr.1.
[45]Havana Reports, p. 83, para. 13.
[46]C/1l1, p. 8.
[47]L/4526/Add.23, L/4099/Add.25; see also documents on Australian action on motor vehicles, L/4526, and on footwear, L/4099.
[48]C/M/155, p. 4, p. 5.
[49]C/M/155, p. 6.
[50]MDF/4, 31S/136, 137 para. 8.

A Secretariat Note on "Drafting History of Article XIX and its Place in GATT" states that, as of 1987, there had been 20 instances of agreement or offers of compensation, usually when the Article XIX action took the form of a tariff increase. There were 10 such cases during 1950-59, eight cases in 1960-69, one case in 1970-79 and one case in 1980-87. With the declining incidence of compensation, there had been an increasing incidence of invocation of Article XIX:3.[51]

Decisions by the CONTRACTING PARTIES extending time limits under Article XIX:3

Australia		
Motor mowers	Decision of 19 September 1960	L/1217/Add.1, 9S/267
Woollen piece goods	Decision of 31 August 1961	L/1546, 10S/270
	Decision of 16 November 1961	L/1638, 10S/270
Heat-resisting glassware	Decision of 6 July 1964	C/M/21
Germany		
Hard coal products	Decision of 17 November 1958	L/920, 7S/128
United States		
Bicycles	Decision of 17 October 1955	L/433, 4S/31
Clinical thermometers	Decision of 8 September 1958	L/803/Add.2
Cotton typewriter ribbon cloth	Decision of 18 November 1960	L/1397, 9S/267
Dried figs	Decision of 29 October 1952	G/39, 1S/107
	Decision of 8 November 1952	G/39, 1S/28
	Decision of 23 October 1953	2S/26
Lead and zinc	Decision of 22 November 1958	L/940
	Decision of 27 May 1959	L/1012, 8S/179
	Decision of 20 November 1959	L/1078, 8S/179
	Decision of 4 June 1960	L/1246, 9S/267
Linen towelling	Decision of 14 September 1956	5S/32
Safety pins	Decision of 4 April 1958	L/624/Add.2
Spring clothes pins	Decision of 24 April 1958	L/757/Add.1
Stainless steel table flatware	Decision of 18 February 1960	L/1076/Add.1, 9S/267

(2) "not later than ninety days after such action is taken"

The period provided in Article XIX:3 for notification of any proposed suspension of obligations or concessions was extended on several occasions by decisions of the CONTRACTING PARTIES, including certain cases from 1952 through 1964 which are listed in the accompanying table.[52]

More recently, the practice has evolved of extending the ninety-day period referred to in paragraph 3(a) of Article XIX through bilateral agreement between the contracting parties concerned with subsequent submission of a joint communication to the other contracting parties to the effect that they, for example, "have agreed that their reciprocal rights and obligations under the General Agreement will be maintained and for this purpose have agreed that the ninety-day period set forth in Article XIX:3(a) shall be considered to expire on"... [date fixed].[53] The texts of such communications are published in addenda to the basic documents on the respective safeguard measures referred to in the table at the end of this chapter.

In the February 1975 Council meeting,

[51]MTN.GNG/NG9/W/7, dated 16 September 1987, p. 5.

[52]See, e.g., decision of 29 October 1952 "to extend by ninety days the period provided under Article XIX:3 for the Turkish Government to notify the CONTRACTING PARTIES of any suspension of equivalent obligations or concessions which it might propose", SR.7/11, p. 1, L/44/Add.1.

[53]See also L/7219/Add.3-5 (reference to "the time period set forth in Article XIX:3(a) within which [contracting party] must notify any intention to suspend substantially equivalent concessions").

"the representative of the European Communities stated that, in connection with the recent Article XIX action on imports of certain footwear taken by Australia, the European Communities had asked for a prolongation by mutual agreement of the period of ninety days, referred to in paragraph 3(a) of Article XIX. There were several precedents for such a prolongation by mutual agreements between the parties. The Australian delegation, however, believed that a decision of this nature would have to be taken by the CONTRACTING PARTIES. He therefore asked whether any other contracting party was of the opinion that such a decision would come under the jurisdiction of the CONTRACTING PARTIES and whether such contracting party would have objections to such a decision. A number of representatives stated that they had never encountered any difficulty in reaching agreement with the other party for an extension of the period referred to in Article XIX:3(a) in order to continue consultations rather than having recourse to retaliation. ... The representative of the European Communities stated that ... it appeared to him that no objection had been voiced in the Council to the extension of the time limit for a reasonable period of time".[54]

In 1981, Australia raised again, but did not pursue, the procedural question of whether or not contracting parties to the GATT may agree bilaterally to extend the ninety-day period referred to in Article XIX or whether, since the General Agreement makes no provision for bilaterally agreed extensions of the ninety-day period, such an extension should be approved by the CONTRACTING PARTIES.[55]

By a communication dated 14 January 1984, the EC notified a proposed compensatory adjustment, to take effect on 1 March 1984, in response to a US Article XIX action on certain specialty steels. At the GATT Council meeting in February 1984 the United States representative requested the Council to extend the time limit under Article XIX:3(a) for an additional thirty days, stating that "more time should be allowed for the two parties to reconcile the major discrepancies and problems in the Community's calculations before the Community retaliated". The EC representative stated that the EC could not agree to the US request for a further extension. In response to a question regarding whether the Council would be competent to take the decision requested of it, the Director-General said that "if the Community agreed to the US request for an extension of the date of entry into force of the retaliatory measures, this could be done. If the Community did not agree, its retaliatory measures could be put into place on 1 March unless the Council were to disapprove of them; but, in the absence of disapproval, the Council could not postpone the entry into force of the measures, because this was the Community's sovereign right".[56]

(3) "to suspend ... the application ... of such substantially equivalent concessions"

In the February 1982 Council discussion of proposed EEC measures under Article XIX:3 with respect to Australia,[57] the Australian representative stated that

"Australia did not dispute the right of a contracting party to take action, but it disputed the nature and the extent of this action and whether or not there existed a substantial equivalence".[58]

"... although a contracting party was entitled to re-establish the balance of concessions, it was not entitled to calculate retrospectively and to take retaliatory action on alleged trade losses over a subsequent period of years beyond the original ninety-day consultative period. ... In the case of motor vehicles, one single atypical year (1974) had been chosen as the base representative period, whereas the normal GATT practice was to use the three-year average, as the EEC had done in the case of footwear. Nonetheless, even when applying the EEC's method and statistical base, but using normal three-year base periods, imports of motor vehicles from the EEC in each year between 1975 and 1980 significantly exceeded the average levels achieved in the base periods. Also, the EEC's actual share of the Australian market in each of these years was higher than in either of the base periods. Thus, on the basis of either market shares or actual trade levels, the EEC had no basis on which to take retaliatory action.

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[54]C/M/103.
[55]L/5026/Add.10, L/4099/Add.20; no subsequent Council discussion of this case.
[56]C/M/174, p. 11; notification under Article XIX:3, L/5524/Add.15.
[57]L/4099/Add.25, L/4526/Add.23; discussion at C/M/155 p. 1-11.
[58]C/M/155, p. 6.

> "Turning to footwear, he said that Australia had similar conceptual and practical problems. In addition, although Australia's Article XIX action on footwear had ceased on 31 December 1981, the EEC sought to take retaliatory action which was totally open-ended. His delegation rejected the notion that the EEC could, at any time in the future, impose a discriminatory tariff on one or all of the items listed in [the EEC's notifications of proposed action], at any level of duty, despite the fact that its rights under Article XIX had expired, and when the Article XIX action taken by Australia itself had expired".[59]

The EEC representative responded that "in the case of motor vehicles, Australia had set up a quota restriction as well as a customs surcharge ... in order to ensure that 80 per cent of the Australian market would be reserved for local production. This had resulted in considerable injury for European producers during the previous seven years ... Australia now had the intention of continuing this action on motor vehicles for another three years". He stated that Australia's offer of compensation had not been acceptable to the EEC because it "did not compensate for the seven years of injury experienced by it".[60]

Other contracting parties also expressed concern at the open-ended nature of the proposed EEC suspension of bindings. It was stated that, "since the damage calculated by the Community referred to a time period, countermeasures might also be expected to be limited in duration ... on the only previous occasion when the CONTRACTING PARTIES had decided not to disapprove a countermeasure - the 1952 case of Turkish countermeasures to US Article XIX action on dried figs - the Turkish action was to be effective only for the period in which the US continued to impose the increased duty on dried figs". The representative of the European Communities stated that "the suspension of concessions was temporary, since any EEC action would remain in force only for the time strictly necessary to compensate the damage".[61]

In March 1985, in response to a notification by the EC of proposed compensatory measures in response to a Canadian Article XIX action on imports of footwear[62], at the Council meeting the representative of Canada stated that "Canada did not question the right of a contracting party to suspend concessions pursuant to Article XIX:3(a) if a mutually satisfactory settlement could not be found. However, the contracting party was required to limit such suspensions to substantially equivalent concessions or other obligations. Canada considered that the Community's proposals did not meet that requirement, and it did not accept the basis for the level of the proposed suspensions, i.e. the Community's calculation of trade impairment in the area of Can.$58 million. Nor did Canada accept that a total embargo on the import of any product (as the Community proposed with respect to Canadian footwear products) could be justified as a suspension of substantially equivalent concessions or other obligations".[63]

The table of Article XIX actions following this chapter notes all known instances to date of action under Article XIX:3.

(4) "to the trade of the contracting party taking such action"

In the discussion of the report of Sub-Committee D in Committee III at the Havana Conference, it was stated with regard to paragraph 3(a) of Article 40, which corresponds to Article XIX:3(a) of the General Agreement:

> "Paragraph 3(a) offered counteraction against emergency actions; the phrase 'to the trade of the Member' showed a discriminatory characteristic not evident in the other paragraphs".[64]

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[59] C/M/155, p. 2-3.
[60] C/M/155, p. 4.
[61] C/M/155, p. 6, 7.
[62] L/5351/Add.22, proposing a one-year total import ban on Canadian footwear and one-year increases in duties applicable to imports of certain products from Canada.
[63] C/M/186, p. 4.
[64] E/CONF.2/C.3/SR.32, p. 3.

(5) "upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES"

In past instances, these words have been understood to mean that the thirty days started counting on the date of receipt of the written notice in the GATT Secretariat. See, e.g., the notice of a 1952 action under Article XIX:3(a) by Belgium against the United States:

> "As written notice of this suspension was received on the 22 April, the suspension became effective on 22 May 1952".[65]

In the February 1982 Council discussion noted above on the EC's Article XIX:3 action against Australia, the Chairman ruled that "Article XIX:3 indicated that a contracting party could not take retaliatory action before the expiry of thirty days or if it were disapproved by the Council. This did not mean that a contracting party was compelled to take such action at the end of the thirty-day period".[66]

(6) "the suspension of which the CONTRACTING PARTIES do not disapprove"

The CONTRACTING PARTIES have never "disapproved" of a countermeasure to a withdrawal pursuant to Article XIX:3(a). There is only one instance of the CONTRACTING PARTIES in session taking a formal decision *not* to disapprove proposed compensatory action, in the case of Turkish action under Article XIX:3(a) against the US in 1952.[67]

The notice of a 1952 action under Article XIX:3(a) by Belgium against the United States, referred to above, is phrased as follows:

> "It was reported in GATT/AIR/14 of 23 April 1952 that the Government of Belgium had engaged in consultations with the Government of the United States, concerning the action of the latter in modifying the concession on hatters' fur in Part I of Schedule XX, and had announced its intention to suspend, under the provisions of Article XIX:3(a), the application of the following concession in the Schedule of Benelux to the trade of the United States: ... Since no request had been received from any contracting party to secure consideration of the proposed action, the proposed suspension of the concession on Item 312 in Schedule II, to the trade of the United States, is deemed to be a substantially equivalent concession, under the Agreement, the suspension of which the Contracting Parties do not disapprove, within the terms of paragraph 3(a) of Article XIX ...".[68]

The Report of the Review Session Working Party on "Quantitative Restrictions" noted, with respect to the phrase "the suspension of which the CONTRACTING PARTIES do not disapprove" that "it is clear, both from the text itself and from the practice followed so far by the CONTRACTING PARTIES, that the contracting party affected is not obliged to obtain prior approval from the CONTRACTING PARTIES and that the object of the phrase quoted is merely to indicate that the CONTRACTING PARTIES have a right to require adjustments in the action taken if they consider that the action goes beyond what is necessary to restore the balance of benefits".[69]

At the 7 February 1984 Council meeting in discussion of proposed EEC compensatory measures under Article XIX:3(a) with respect to a United States Article XIX action on certain specialty steels, the United States argued that the proposed EEC action was "excessive by the standards of Article XIX:3(a)". The EEC representative stated that if, after the date of implementation of the EEC's measures, "the United States considered that the Community's measures were excessive, then the CONTRACTING PARTIES would have the right, as stressed by a working party in 1955, 'to require adjustments in the action taken if they consider that the action goes beyond what is necessary to restore the balance of benefits'".[70] The US then submitted a request for

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[65] L/9.
[66] C/M/155, p. 10.
[67] Decision of 8 November 1952, L/57, 1S/28-30, SR.7/15.
[68] L/9.
[69] L/332/Rev.1 and Addenda, adopted on 2, 4 and 5 March 1955, 3S/170, 182, para. 39.
[70] C/M/174, p. 11-12.

a decision disapproving the measures notified by the EEC.[71] At the 22 February 1984 Council meeting, the US representative stated that the EEC measures "would exceed the level which could be considered 'substantially equivalent' to the US action, and that therefore, the CONTRACTING PARTIES should disapprove of the Community's proposal unless it was modified to conform with the criteria of Article XIX. The United States had tried to ensure ... that its safeguard action was proportionate to the injury that the US industry had suffered. It was equally important for the integrity of the safeguard process that any retaliatory action did not exceed the effect of the measures; and the question of the quality of responsive measures to safeguard actions should be a matter of concern for the Council". The two parties agreed to continue consultations to find a satisfactory solution.[72]

B. RELATIONSHIP BETWEEN ARTICLE XIX AND OTHER GATT PROVISIONS

1. Articles I and XIII

See the discussion above beginning on page 519 concerning "Non-discriminatory invocation of Article XIX".

2. Article XVIII:A

The 1951 Working Party "Report on the Withdrawal of a Tariff Concession by the United States" noted, in relation to Article XVIII as it existed prior to its amendment in 1955:

> "... it must be commented that any proposal to withdraw a tariff concession in order to promote the establishment or development of domestic production of a new or novel type of product in which overseas suppliers have opened up a new market is not permissible under Article XIX but should be dealt with under other provisions of the Agreement, such as Article XVIII. On the other hand, it may be permissible to have recourse to Article XIX if a new or novel type of imported product is replacing the customary domestic product to a degree which causes or threatens serious injury to domestic producers".[73]

3. Article XXIII

See under Article XXIII.

4. Article XXIV

See under Article XXIV.

5. Part IV

See under Part IV.

6. Article XIX actions and rectification and modification of schedules

The Report of the Working Party on "Preparation of the Second Protocol of Rectifications and Modifications and Legal Status of the Consolidated Schedules" noted:

> "The question was raised in the Working Party of giving effect to withdrawals of concessions under Article XIX ... by means of including such withdrawals in protocols of rectifications and modifications. The Working Party considered that this would be an undesirable procedure since all withdrawals would thus be given an irrevocable character and eventual reinstatement of such concessions would be difficult".[74]

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[71] L/5524/Add.21-22, L/5524/Add.22/Corr.1.
[72] C/M/175, p. 2-3; no further Council discussion.
[73] GATT/CP/106, report adopted on 22 October 1951, GATT/CP.6/SR.19, Sales No. GATT/1951-3, p. 21, para. 28.
[74] G/34, adopted on 8 November 1952, 1S/64, 65, para. 5.

The current Procedures for Modification and Rectification of Schedules of Tariff Concessions[75] do not provide for certification of changes in schedules resulting from Article XIX action.

C. EXCEPTIONS AND DEROGATIONS

1. Special safeguards provisions in certain protocols of accession

Certain protocols of accession contain special safeguards provisions for consultations and possible remedial action if any product is being imported "in such increased quantities or under such conditions as to cause or threaten serious injury ...". Paragraph 4 of the Protocol for the Accession of Poland provides as follows:

> "(a) If any product is being imported into the territory of a contracting party from the territory of Poland in such increased quantities or under such conditions as to cause or threaten serious injury to domestic producers in the former territory of like or directly competitive products, the provisions of (b) to (e) of this paragraph shall apply.
>
> "(b) The contracting party concerned may request Poland to enter into consultation with it. Any such request shall be notified to the CONTRACTING PARTIES. If, as a result of this consultation, Poland agrees that the situation referred to in (a) above exists, it shall limit exports or take such other action, which may include action with respect to the price at which the exports are sold, as will prevent or remedy the injury.
>
> "(c) Should it not be possible to reach agreement between Poland and the contracting party concerned as a result of consultation under (b), the matter may be referred to the CONTRACTING PARTIES who shall promptly investigate the matter and who may make recommendations to Poland or to the contracting party which initially raised the matter.
>
> "(d) If following action under (b) and (c) above, agreement is still not reached between Poland and the contracting party concerned, the contracting party shall be free to restrict imports from the territory of Poland of the product concerned to the extent and for such time as is necessary to prevent or remedy the injury. Poland shall then be free to deviate from its obligations to the contracting party in respect of substantially equivalent trade.
>
> "(e) In critical circumstances, where delay would cause damage difficult to repair the contracting party affected may take action provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action".[76]

Paragraph 5 of the Protocol for the Accession of Hungary and paragraph 4 of the Accession of Romania contain identical provisions as follows:

> "(a) If any product is being imported, in the trade between [Hungary] and contracting parties, in such increased quantities or under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products, the provisions of (b) to (e) of this paragraph shall apply.
>
> "(b) [Hungary] or the contracting party concerned may request consultations. Any such request shall be notified to the CONTRACTING PARTIES. If, as a result of such consultations, it is agreed that the situation referred to in (a) above exists, exports shall be limited or such other action taken, which may include action, if possible, with respect to the price at which the exports are sold, as will prevent or remedy the injury.
>
> "(c) Should it not be possible to reach agreement between the parties concerned as a result of consultation under (b), the matter may be referred to the CONTRACTING PARTIES who shall promptly investigate the matter and who make appropriate recommendations to [Hungary] or to the contracting party concerned.

[75] Adopted on 26 March 1980, 27S/25.
[76] 15S/46, 48-49, para. 4.

"(d) If, following action under (b) and (c) above, agreement is still not reached between the parties concerned, the contracting party concerned shall be free to restrict the imports of the products concerned to the extent and for such time as is necessary to prevent or remedy the injury. The other party shall then be free to deviate from its obligations to the contracting party concerned in respect of substantially equivalent trade.

"(e) In critical circumstances, where delay would cause damage difficult to repair, such preventive or remedial action may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action".[77]

The Report of the Working Party on "Accession of Hungary" notes in this respect:

"Members of the Working Party considered it important to have in a protocol of accession a specific safeguard clause. Representatives of countries maintaining quantitative restrictions against Hungary's exports indicated in this connexion that the inclusion of such a safeguard clause would facilitate the removal of the restrictions [maintained inconsistently with Article XIII]. The representative of Hungary could agree to the inclusion of a safeguard clause, provided it operated on a reciprocal basis. He also stated that his acceptance of such a safeguard clause was in anticipation of the early elimination of quantitative restrictions maintained against imports from Hungary, inconsistently with Article XIII. Paragraph 5 of the draft Protocol has been prepared taking into account these views".[78]

2. Arrangement Regarding International Trade in Textiles (MFA)

The Arrangement Regarding International Trade in Textiles (MFA) of 20 December 1973[79] included special safeguard provisions but provided, in paragraph 6 of its Article 1, that "the provisions of this Arrangement shall not affect the rights and obligations of the participating countries under the GATT". The period of validity of the MFA was extended several times, most recently by the Protocol Maintaining in Force the Arrangement Regarding International Trade in Textiles of 9 December 1993, which provided that the Arrangement was to be maintained in force until 31 December 1994, at which time the MFA expired.[80] Trade in textiles and clothing is now governed by the Agreement on Textiles and Clothing in Annex 1A of the WTO Agreement. Article 1:6 of this Agreement provides: "Unless otherwise provided in this Agreement, its provisions shall not affect the rights and obligations of Members under the provisions of the WTO Agreement and the Multilateral Trade Agreements".

The question whether, in the light of Article 1:6, a party to the MFA could invoke GATT provisions for restrictive actions relating to textile products, was discussed in the Textiles Surveillance Body on several occasions.[81] Paragraphs 9, 23 and 26 respectively of the Conclusions of the Textiles Committee adopted on 14 December 1977, 22 December 1981 and 31 July 1986 which are confirmed in and attached to the 1977, 1981 and 1986 Protocols Extending the Arrangement Regarding International Trade in Textiles, provided, *inter alia*, "that in order to ensure the proper functioning of the MFA, all participants would refrain from taking measures on textiles covered by the MFA outside the provisions therein before exhausting all the relief measures provided in the MFA".[82] With regard to paragraph 23 of the Conclusions, the view was expressed "that, pursuant to Article 1:6 of the MFA, resort to any of the provisions of the GATT was fully consistent with the objectives of this paragraph".[83] The representative of Colombia, speaking on behalf of developing exporting countries, said "that the MFA, as extended by the new Protocol adopted by the Textiles Committee, constituted the

[77] 20S/3, 4-5 (Hungary); 18S/5, 7, para. 4 (Romania). Concerning the use of these safeguard clauses by contracting parties see the Working Party Report on "Trade with Hungary - Seventh Review under the Protocol of Accession", L/6535, adopted on 19 July 1989, 36S/416, 422 para. 38; also, the Working Party Report on "Trade with Romania - Sixth Review under the Protocol of Accession", L/6282, adopted on 2 February 1988, 35S/337, 344-345 paras. 25-26, 30-31, and L/6155; see also Working Party Report on "Accession of Greece to the European Communities", L/5453, adopted on 9 March 1983, 30S/168, 178-179 paras. 30 and 32.

[78] L/3889, adopted on 30 July 1973, 20S/34, 35 para. 9.

[79] TEX.NG/1, 21S/3; L/5276, 28S/3.

[80] L/7363 (text of Protocol); COM.TEX/76, Annex II (Decision by the Textiles Committee).

[81] 24S/28, 44-48, paras. 60-70; COM.TEX/SB/210, 225, 255.

[82] L/4616, 24S/5, 7, para. 9; L/5276, 28S/3, 8, para. 23; L/6030, 33S/7, 14, para. 26.

[83] COM.TEX/W/127, para. 14.

multilaterally agreed special framework governing international trade in textiles. It would therefore be the only legal basis for future bilateral agreements between exporting and importing participants".[84]

D. "VOLUNTARY EXPORT RESTRAINTS" AND GREY-AREA MEASURES

During the discussion in the Council in March 1978 concerning the EEC's invocation of Article XIX with respect to the imposition of import restrictions on monochrome television sets imported into the United Kingdom from Korea, the Korean representative stated that these restrictions were imposed in violation of the relevant provisions of the GATT, and "expressed concern that acquiescence on the part of the CONTRACTING PARTIES in this case might be utilized as a precedent for legitimizing selective import restrictions in the conduct of international trade". The Hong Kong delegation "emphasized that Article XIX was not susceptible of being invoked on a discriminatory basis. He referred to [discussions during the Havana Conference and in 1953, noted above at page 519 and following] ... The only derogation from this principle of non-discrimination was in the Textiles Arrangements, which would not have been necessary if Article XIX had been capable of being used in a selective manner. ... A large number of representatives also spoke on the matter and expressed the opinion that Article XIX did not provide for the discriminatory application of measures to limit potentially disruptive imports". It was also stated that "voluntary restraint agreements were often forced upon the weaker members of the GATT ... there was no provision in the General Agreement that provided a legal basis for discriminatory restraints, even when they were supported by an agreement of a voluntary nature".[85]

A Note by the Director-General on "Safeguards", which is annexed to the 1984 Report on "Safeguards" by the Chairman of the Council to the Fortieth Session of the CONTRACTING PARTIES, notes as follows:

> "Export restrictions are generally prohibited under Article XI unless covered by an exception. Measures limiting exports to certain contracting parties only are, in any case, contrary to the provisions of Article XIII (except in the exceptional situations laid down in Article XIV) which provides for the non-discriminatory application of such restrictions. It may be argued that this is a very legalistic way of looking at the matter and that 'voluntary export restraints' are not, in fact, export restrictions but import restrictions which are administered by the exporting country. They would, once again, only be in conformity with the General Agreement if they were justified under a particular exception to Article XI and administered in accordance with the provisions relating to the non-discriminatory administration of quantitative restrictions contained in Article XIII. In fact 'voluntary' export restraints are clearly contrary to the present rules of the General Agreement and are only 'outside the General Agreement' in the sense that governments have not brought them formally to the GATT for examination".[86]

Grey-area measures have been examined by panels under Article XXIII on a number of occasions. In 1980, the Panel on "EEC - Restrictions on Imports of Apples from Chile" examined a suspension by the EEC of imports of apples from Chile, after arrangements were reached with four other Southern Hemisphere suppliers for the restraint of their exports of apples to the EEC. In its findings,

> "The Panel examined the EEC measure in relation to Article XIII:1. The Panel found that the EEC suspension applied to imports from Chile was not a restriction similar to the voluntary restraint agreements negotiated with the other Southern Hemisphere suppliers on the basis primarily that:
>
> "(a) there was a difference in transparency between the two types of action;
>
> "(b) there was a difference in the administration of the restrictions, the one being an import restriction, the other an export restraint; and
>
> "(c) the import suspension was unilateral and mandatory while the other was voluntary and negotiated.

[84] *Ibid.*, para. 17.
[85] C/M/124, p. 18-20.
[86] MDF/4, p. 6, para. 11; MDF/4 appears at 31S/136 but the Annex is not reproduced.

"... Notwithstanding the Panel's conclusions regarding the lack of similarity of the restrictions with regard to Article XIII:1, and in light of XIII:5, the Panel proceeded to consider the EEC import suspension against Chile and the voluntary restraint agreements with other Southern Hemisphere exporters as 'quotas' for purposes of the Panel's examination of the EEC measure under XIII:2".[87]

In 1989, the Panel on "EEC - Restrictions on Imports of Dessert Apples - Complaint by Chile" examined a later suspension by the EEC of imports of apples from Chile. With regard to Article XIII:2 and :4, "...the Panel did not find any basis in the General Agreement for the EC taking into account as 'special factors' the restraint alleged to have been exercised in previous years by other suppliers".[88]

See also the 1988 Report of the Panel on "Japan - Trade in Semi-conductors", which examined, *inter alia*, a third-country market monitoring scheme established by Japan after the 1985 Arrangement with the United States concerning Trade in Semiconductors. In its findings,

"The Panel examined the parties' contentions in the light of Article XI:1. ... The Panel noted that this wording [of Article XI:1] was comprehensive: it applied to all measures instituted or maintained by a contracting party prohibiting or restricting the importation, exportation or sale for export of products other than measures that take the form of duties, taxes or other charges.

"The Panel noted that the CONTRACTING PARTIES had decided in a previous case that the import regulation allowing the import of a product in principle, but not below a minimum price level, constituted a restriction on importation within the meaning of Article XI:1 (BISD 25S/99). The Panel considered that the principle applied in that case to restrictions on imports of goods below certain prices was equally applicable to restrictions on exports below certain prices.

"The Panel then examined the contention of the Japanese Government that the measures complained of were not restrictions within the meaning of Article XI:1 because they were not legally binding or mandatory. In this respect the Panel noted that Article XI:1, unlike other provisions of the General Agreement, did not refer to laws or regulations but more broadly to measures. This wording indicated clearly that any measure instituted or maintained by a contracting party which restricted the exportation or sale for export of products was covered by this provision, irrespective of the legal status of the measure".[89]

"... The Panel concluded that the complex of measures constituted a coherent system restricting the sale for export of monitored semi-conductors at prices below company-specific costs to markets other than the United States, inconsistent with Article XI.1".[90]

With regard to the possibility of using dispute settlement proceedings under the General Agreement to enforce agreements between contracting parties providing for "voluntary export restraints", it may be noted that a Decision of the CONTRACTING PARTIES provides that "The determination of rights and obligations between governments arising under a bilateral agreement is not a matter within the competence of the CONTRACTING PARTIES". A footnote to this decision provides that "This Decision by its terms clearly refers only to the determination of the rights and obligations as between the parties to the bilateral agreement and arising from it. It is, however, within the competence of the CONTRACTING PARTIES to determine whether action under such a bilateral agreement would or would not conflict with the provisions of the General Agreement".[91]

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[87] L/5047, adopted on 10 November 1980, 27S/98, 114, paras. 4.11-4.12. The Panel found the EEC measure to be inconsistent with paragraphs 1, 2(a), 2(d) and 3(b) first sentence of Article XIII; *ibid.*, para. 4.25.

[88] L/6491, adopted on 22 June 1989, 36S/93, 131 para. 12.24.

[89] L/6309, adopted on 4 May 1988, 35S/116, 153-154, paras. 104-106.

[90] *Ibid.*, 35S/158, para. 117.

[91] Decision of 9 August 1949, II/11 (relating to a matter raised by Cuba with reference to a Cuba-US agreement providing for trade preferences). See also L/1636 (Note of 1961 by the Executive Secretary stating that CONTRACTING PARTIES have jurisdiction to examine consistency of bilateral agreements with rights of third GATT contracting parties).

A series of lists of "grey-area measures" have been compiled by the Secretariat, most recently in 1987.[92]

E. WORK UNDERTAKEN IN THE GATT ON SAFEGUARDS

A Secretariat Note of 1987 on "Work Already Undertaken in the GATT on Safeguards" describes the history of discussions on safeguards as follows:

At the time that Japan's accession to the GATT was under discussion in February 1953, some contracting parties wished to retain the right to apply discriminatory quantitative restrictions on imports from Japan.[93] They suggested that an additional safeguard clause should be introduced into the General Agreement, arguing that a large number of Article XIX actions, which would have to be applied on a most-favoured-nation basis, might lead to a general raising of barriers to world trade. Other contracting parties felt that no additional safeguard clause was required. A suggestion was made that in order to avoid a higher general level of barriers to world trade, contracting parties might bring cases to the GATT under Article XXIII, paragraph 2, under which the CONTRACTING PARTIES could authorize the application of safeguard actions on a discriminatory basis. However, some delegations pointed out that there might be circumstances in which the procedures of Article XXIII would be too slow in operation to provide adequate safeguards, and they suggested that if the CONTRACTING PARTIES failed to reach a decision within thirty days, provisional safeguard measures might be taken pending a decision of the CONTRACTING PARTIES. In the end there was no agreement on the application of Article XXIII along these lines.

Japan became a contracting party in September 1955 without any new general safeguard clause being added to the General Agreement. Some contracting parties invoked Article XXXV on Japan's accession. In a number of cases, Japan negotiated bilateral trade agreements containing special safeguard clauses and then the countries concerned disinvoked Article XXXV. Some countries did not invoke Article XXXV but nevertheless continued to discriminate against Japan.[94]

At the November 1959 Session of the CONTRACTING PARTIES, some delegations stated that sharp increases in imports, over a brief period of time and in a narrow range of commodities, could have serious economic, political and social repercussions in the importing countries. The CONTRACTING PARTIES accordingly decided that the secretariat should prepare a factual study on the question of "market disruption".[95] The outcome of the study showed that a wide variety of products, chiefly textiles and clothing products, were subject to import restrictions applied by a number of countries to deal with market disruption.[96] In June 1960 a Working Party on "Avoidance of Market Disruption" was established. In November 1960, a Decision was adopted recognizing that

"(a) In a number of countries situations occur or threaten to occur which have been described as 'market disruption'.

"(b) These situations generally contain the following elements in combination:

[92]Spec(82)18 dated 26 March 1982; Spec(82)18/Rev.3 dated 22 May 1984; L/6087, dated 28 November 1986; Secretariat Note on "Inventory of Article XIX Actions and Other Measures which Appear to Serve the Same Purpose", MTN.GNG/NG9/W/2/Rev.1, dated 17 August 1987, and Corr.1 dated 31 August 1987; Background Note by the Secretariat on "'Grey-Area' Measures" dated 16 September 1987, MTN.GNG/NG9/W/6. See also various reports under the Trade Policy Review Mechanism since 1989.

[93]L/76.

[94]See, e.g., L/1164, page 33.

[95]8S/22.

[96]L/1164.

"(i) a sharp and substantial increase or potential increase of imports of particular products from particular sources;

"(ii) these products are offered at prices which are substantially below those prevailing for similar goods of comparable quality in the market of the importing country;

"(iii) there is serious damage to domestic producers or threat thereof;

"(iv) the price differentials referred to in paragraph (ii) above do not arise from governmental intervention in the fixing or formation of prices or from dumping practices. ...

"(c) These situations have often led governments to take a variety of exceptional measures. In some cases importing countries have taken or maintained discriminatory measures either outside the framework of the General Agreement, or contrary to the provisions of the General Agreement. In some other cases exporting countries have tried to correct the situation by taking measures to limit or control the export of the products giving rise to the situation.

"(d) Such measures, taken unilaterally or through bilateral arrangement, may in some cases tend to cause difficulties in other markets and create problems for other contracting parties".[97]

The same Decision provided for a programme of work. This work did not lead to the elaboration of any generally applicable solutions, however,[98] but indirectly to the negotiation of a special safeguard clause relating to a single industrial sector – cotton textiles.

The Short-Term Arrangement Regarding International Trade in Cotton Textiles (STA)[99] came into force on 1 October 1961 for a twelve-month period pending a long-term solution. A year later, the STA was superseded by the Long-Term Arrangement Regarding International Trade in Cotton Textiles (LTA)[100] which came into force on 1 October 1962 for a five-year period and continued into force until 31 December 1973. The stated objectives of the LTA, as of the STA, were two-fold: to promote the economic progress of developing countries by providing larger opportunities for exchange earnings, while ensuring that cotton textiles trade developed in such a way as to avoid disruptive effects in individual markets. Later, the Arrangement Regarding International Trade in Textiles, commonly known as the Multifibre Arrangement or the MFA,[101] covering textile products of man-made fibre and wool as well as cotton, entered into force on 1 January 1974 for a period of four years. As noted above on page 531, the MFA was extended a number of times and finally expired at the end of 1994.

The Tokyo Declaration adopted in September 1973, which launched the Tokyo Round of multilateral trade negotiations, stated that these negotiations should aim, *inter alia*, to "include an examination of the adequacy of the multilateral safeguard system, considering particularly the modalities of application of Article XIX, with a view to furthering trade liberalization and preserving its results".[102] The Trade Negotiations Committee established a negotiating group on safeguards in February 1975 to carry out the task set out in the Ministerial mandate. However, in spite of intensive efforts made in the final stage of the Tokyo Round, and a narrowing of differences, it did not prove possible to reach agreement within the framework of the Round.[103]

In the "GATT Work Programme" agreed on 29 November 1979 to follow up on the Tokyo Round results, it was agreed that "Continued negotiations on safeguards constitute an essential element in the GATT

[97] 9S/26, 26-27, Decision of 19 November 1960 on "Avoidance of Market Disruption - Establishment of Committee"; see also L/1374, Report of the Working Party on "Avoidance of Market Disruption - Establishment of Committee", adopted on 19 November 1960, 9S/108.

[98] In May 1964, after two years of experience with the LTA and at the time when the Kennedy Round was under preparation, the Executive Secretary of GATT made some unofficial "preliminary suggestions" (see above, page 520) which were rejected and not pursued.

[99] 10S/18.

[100] 11S/25.

[101] 21S/3.

[102] MIN(73)1, Declaration of Ministers approved at Tokyo on 14 September 1973, 20S/19, 21, para. 3(d).

[103] Concerning negotiations on safeguards in the Tokyo Round, see further *The Tokyo Round of Multilateral Trade Negotiations: Report by the Director-General of GATT*, April 1979, p. 90-95, and the *Supplementary Report* of January 1980, p. 14-17.

Work Programme and should be carried out as a matter of urgency in accordance with the agreement reached in the Council on this matter".[104] The separate Decision on "Safeguards" of the same date provided that "The CONTRACTING PARTIES stress the need for an agreement on an improved multilateral safeguard system. The CONTRACTING PARTIES reaffirm their intention to continue to abide by the disciplines and obligations of Article XIX of the General Agreement. A Committee is established to continue discussions and negotiations ... with the aim of elaborating supplementary rules and procedures regarding the application of Article XIX of the General Agreement, in order to provide greater uniformity and certainty in the implementation of its provisions".[105] At the same time it was decided to establish the Sub-Committee on Protective Measures of the Committee on Trade and Development.[106]

At its meeting in April 1981, the Committee on Safeguards adopted the following conclusions:

"(i) the provisions of Article XIX of the General Agreement continue to apply fully and at the present time the rules and procedures for their application remain unchanged;

"(ii) the CONTRACTING PARTIES will continue to keep the matter under examination and discussion and to this end the Committee on Safeguards will expedite its work;

"(iii) All actions taken under Article XIX, and to the extent possible, other actions which serve the same purpose will be notified to the CONTRACTING PARTIES. In addition, it will be open to contracting parties to bring up any matter in accordance with the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance.[107]

In November 1982, the CONTRACTING PARTIES meeting at Ministerial level adopted a Ministerial Declaration, paragraph 7(vi) of which provided that "the contracting parties undertake, individually and jointly ... to bring into effect expeditiously a comprehensive understanding on safeguards to be based on the principles of the General Agreement".[108] The Decision adopted on the same date on "Safeguards" provides:

"The CONTRACTING PARTIES decide:

"1. That, having regard to the objectives and disciplines of the General Agreement, there is need for an improved and more efficient safeguard system which provides for greater predictability and clarity and also greater security and equity for both importing and exporting countries, so as to preserve the results of trade liberalization and avoid the proliferation of restrictive measures; and

"2. That to this end, effect should be given to a comprehensive understanding to be based on the principles of the General Agreement which would contain, *inter alia*, the following elements:

"(i) Transparency;

"(ii) Coverage;

"(iii) Objective criteria for action including the concept of serious injury or threat thereof;

"(iv) Temporary nature, degressivity and structural adjustment;

"(v) Compensation and retaliation; and

"(vi) Notification, consultation, multilateral surveillance and dispute settlement with particular reference to the role and functions of the Safeguards Committee".

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[104]L/4884/Add.1/Annex VI, adopted on 28 November 1979, 26S/219, 220, para. 2.

[105]L/4898, adopted on 29 November 1979, 26S/202.

[106]L/4899, Decision of 28 November 1979 on "Examination of Protective Measures Affecting Imports from Developing Countries"; concerning this Sub-Committee see the chapter on Part IV.

[107]L/5151.

[108]L/5424, Ministerial Declaration adopted on 29 November 1982, 29S/9, 12, para. 7(vi).

The Ministerial Declaration of 20 September 1986 launching the Uruguay Round provided that

> "A comprehensive agreement on safeguards is of particular importance to the strengthening of the GATT system and to progress in the Multilateral Trade Negotiations.
>
> "The agreement on safeguards:
>
> "– shall be based on the basic principles of the General Agreement;
>
> "– shall contain, *inter alia*, the following elements: transparency, coverage, objective criteria for action including the concept of serious injury or threat thereof, temporary nature, degressivity and structural adjustment, compensation and retaliation, notification, consultation, multilateral surveillance and dispute settlement; and
>
> "– shall clarify and reinforce the disciplines of the General Agreement and should apply to all contracting parties".[109]

The WTO Agreement includes an Agreement on Safeguards, which includes provisions on conditions for application of safeguards measures ("those measures provided for in Article XIX of GATT 1994"), determination of serious injury or threat thereof, application of safeguard measures, provisional safeguard measures, duration and review of safeguard measures, level of concessions and other obligations, developing country WTO members, termination of pre-existing Article XIX measures, and prohibition and elimination of grey-area measures. The Agreement also provides for notification, consultation, dispute settlement and surveillance of measures in this area.

III. PREPARATORY WORK AND SUBSEQUENT MODIFICATIONS

The Havana Charter provision corresponding to Article XIX is Article 40; in the US Draft, Article 29; in the London and New York Drafts, Article 34; and in the Geneva Draft, Article 40. Concerning the antecedents of the "escape clause" in the US Draft Charter, see page 518 above.

Article XIX has been amended only once. In the Review Session of 1954-55, it was agreed to change the term "obligations or concessions" (paragraph 3(a) and (b)) to "concessions or other obligations".[110] This change was effected through the 1955 Protocol Amending the Preamble and Parts II and III, and came into force in October 1957. Various other amendments to Article XIX were proposed in the Review Session but rejected.[111]

[109] Min.Dec., section I.D, 33S/19, 24-25.
[110] W.9/236, Legal and Drafting Committee report on drafting changes to various Articles.
[111] See Statement of Recommendations submitted by Sub-Group B to Working Party II, W.9/193, p. 12-13.

IV. RELEVANT DOCUMENTS

London

Discussion: EPCT/C.II/38
EPCT/C.II/QR/PV/5

New York

Discussion: EPCT/C.6/29+Corr.1-2, 34, 40
Reports: EPCT/C.6/28/Rev.1, 97/Rev.1, 105
Other: EPCT/C.6/W/8, 66, 87

Geneva

Discussion: EPCT/A/SR.11, 12, 35
EPCT/TAC/PV/28
Reports: EPCT/135, 189, 196, 212, 214/Rev.1/Add.1
EPCT/W/313
Other: EPCT/W/272, 301

Havana

Discussion: E/CONF.2/C.3/SR.17, 32, 35
E/CONF.2/C.3/D/2, 4, 7-11, 13
Reports: E/CONF.2/C.3/37, 49, 52
E/CONF.2/C.3/D/W/12
Other: E/CONF.2/C.3/D/1-7

CONTRACTING PARTIES

Report: GATT/CP/106 (Published in November 1951: *Report on the Withdrawal by the United States of a Tariff Concession under Article XIX*, Sales No. GATT/1951-3.)

Review Session

Discussion: SR.9/16, 25
Reports: W.9/124, 193, W.9/236
Other: L/273, 275, 277, 283
W.9/21, 45; Spec/3/55, 4/55, 85/55, 94/55

V. NOTIFICATIONS TO THE SECRETARIAT OF ACTIONS UNDER ARTICLE XIX

(Situation as at 1 January 1995)

General notes:

(1) The only actions listed are those which have been notified under Article XIX. This table does not include other quantitative restrictions or "emergency actions" notified without reference to Article XIX.
(2) Product descriptions are abbreviated.
(3) Column on affected countries is based on claimed interest or on information on principal or substantial suppliers furnished by governments taking actions, and may therefore be incomplete. In some instances, these statistics indicate largest suppliers.
(4) Shaded table cells indicate that the Article XIX action had not been terminated as of 1 January 1995.

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
1.	1.12.50	June 1956 XXVIII:4 reneg.	US	Women's fur felt hats and hat bodies	Value-bracketed ad valorem duties replaced by compound rates for products between certain prices	Austria, Czechoslovakia, France, Italy, UK. *Compensation* to France, Italy at Torquay. Czechoslovakia brought dispute under Article XXIII:2.	GATT/CP/83, GATT/CP.5/22, GATT/CP.5/SR.22 & 23; Panel report GATT/CP/106; adopted at GATT/CP.6/SR.19. SECRET/63/Add. 1-2
2.	9.2.52	14.9.58	US	Hatters' fur	Ad valorem duty replaced by compound rates subject to an ad valorem floor and ceiling	Argentina, Belgium, France; Benelux took *Article XIX:3* action 22.5.52	SECRET/CP/19 & Add.1, GATT/ CP/140 & Add.1, L/9, L/851 & Add.1
3.	30.8.52	1966 XXVIII:4 reneg. (nomencl. rev.)	US	Dried figs	Specific duty increased	Greece, Italy, Turkey. Turkey took *Art. XIX:3* action 23.2.53 (see BISD 1S/28). *Compensatory reductions* made by US to a number of countries in 1966.	AIR/23, L/14, L/40, L/44, L/57, L/72, L/83, L/145, L/147, L/161, L/284, L/2592, G/39, G/70, BISD 1S/28
4.	1.7.54	30.6.59	US	Alsike clover seed	Specific duty increased for imports above a fixed annual quota, which was increased 1 July 1955 and 2 July 1957	Canada, Belgium	AIR/47, L/216, L/662, L/1532 & Add.1
5.	3.55	Oct. 1955 XXVIII reneg.	Greece	Apples	Specific duty replaced by increased ad valorem duty plus 75% surtax	Canada, which was *compensated*	L/346 & Corr.1; unpublished Canadian letters dated 21.5.62, 6.5.63, 7.4.70.
6.	19.8.55	Jan 1961 XXVIII:4 reneg.	US	Bicycles	Duties per unit increased, as well as floors and ceilings with respect to ad valorem equivalents. On 12 December 1960, US Supreme Court invalidated the action on one out of four subitems in question.	Austria, Belgium, Netherlands, Germany, UK (all *compensated in 1956*); France, Italy.	AIR/77, 79 & 214, L/433, 6/PSC, C/M/2, SECRET/ 136/Add.1-4
7.	26.7.56	1966 XXVIII:4 reneg. (nomencl. rev.)	US	Towelling of flax, hemp or ramie	Ad valorem duty increased	Belgium, Japan, Netherlands, United Kingdom. *Compensation* to Benelux, U.K. in June 1957. *Compensatory reductions* made by US to a number of countries in 1966.	AIR/90 & 92, L/548, L/573 & Add.1, L/2592

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
8.	3.10.56	June 1961 XXVIII:1 reneg.	Greece	Electric refrigerators	Ad valorem duty increased	United States, which was *compensated*	L/541, L/575, SECRET/131/ Add.7; letters (unpubl. 21.5.62 and 7.4.70)
9.	14.6.57	14.12.57	Canada	Strawberries	Minimum values for duty (increased specific duties)	United States	L/642
10.	9.11.57	Feb. 1961 XXVIII:4 reneg.	US	Spring clothespins	Specific duty increased.	Benelux, Denmark, Hong Kong, Sweden. *Compensation* to Denmark, Sweden, Benelux	L/757 & Add.1, L/758, SR.12/21, AIR/128 & 214, C/M/2, SECRET/ 136/Add. 5-7
11.	29.11.57	28.1.66	US	Safety-pins	Ad valorem duty increased.	Germany, Japan, United Kingdom. *Compensation* to Germany, UK in Jan. 1962.	AIR/105, L/624 & Add.1-2, AIR/125, L/1746, L/2565
12.	12.2.58	15.6.59	Canada	Frozen peas	Minimum values for duty (increased specific duties)	United States (only supplier)	AIR/124, L/1017
13.	27.2.58	15.5.58	Australia	Printed cotton textiles	Ban on import licences. Japan had agreed to reduce exports already covered by licenses and firm orders. Licences thus redundant could not be used to import from any other source, but might be used on other categories of goods from any country. Action modified 1 April 1958. Licences issued against other quotas but value of licences issued to any individual quota holder not to be in excess of his imports in same licensing period in 1957; also, of total value licensed, not more than 50 per cent to be imported prior to 30 June 1958.	Japan	L/797 & Add.1-2
14.	22.5.58	7.1.66	US	Clinical thermometers	Ad valorem rate increased.	Japan	L/803 & Add.1 & Corr. 1 and Add.2, AIR/138, L/2566
15.	4.9.58		Germany	Hard coal and hard coal products	Repeal of general licence from countries outside the ECSC. Further contracts subjected to individual licensing.	Norway, United Kingdom, United States; *compensation* was offered	L/855, L/920
16.	1.10.58	22.10.65 (ores + concentrates) 22.11.65 (metals)	US	Lead and zinc	Separate country-allocated quarterly quotas representing 80% of average competitive imports during 1953-1957.	Canada, Mexico, Peru for lead and zinc; Australia, South Africa, Yugoslavia (lead)	L/819, L/859, L/940, L/1078, L/2489, IC/SR.41

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
17.	1.1.59	1.1.61 (XXVIII:1 reneg. with effect from same date)	Austria	Porcelain	Specific duty increased	Czechoslovakia, Germany, which were both *compensated* prior to action	L/863 & Add.1, SECRET/120 & Add.1-3
18.	1.4.59	20.5.60 (new tariffs introduced)	Australia	Footwear	Import licensing issued to the extent of 100% of imports during financial year 1956-57. All footwear transferred from licensing categ. B (under which quotas were interchangeable among a wide variety of goods) to categ. A (under which quotas were related to particular goods), to reduce substantially only rate of import of casual footwear. Background was marked increase in licences issued for imports from Hong Kong and other sources after Japan agreed Dec. 1958 to export restraints on casual footwear. Action modified 1 August 1959 (for some items 100% of 1957-58 imports, for some items 75%, for another 50%).	Japan, Hong Kong	L/974 & Add.1-2
19.	1.11.59	11.10.67	US	Stainless steel flatware	Various compound duties replaced by increased ad valorem duties or compound duties depending on the article, for imports valued under certain price when imported in excess of a tariff quota. In 3.1958 President had decided that "a full evaluation of Japan's voluntary export limitation system was necessary because of the promise it held of relieving the situation ... In July 1959 after a supplemental investigation another report was submitted. It is on the basis of this entire investigation and history that the action ... is taken" (L/1076). On 7.1.66, quotas increased and over-quota rates reduced retroactive to 1.11.65.	Japan	L/791, L/1076 & Add.1, AIR/177, L/2543, L/2953 See also item 62.
20.	30.5.60	17.7.61 (new tariff introduced)	Australia	Motor mowers and engines	Global non-discriminatory licensing of engines for motor mowers at 25% of requirements; for other engines at 100% of requirements; for motor mowers at 100% of 1959 imports.	United Kingdom, United States	L/1217 & Add.1, AIR/204, L/1527
21.	22.9.60	11.10.67	US	Cotton typewriter ribbon cloth	Duties increased to various higher ad valorem rates.	Germany, Japan, United Kingdom. UK *compensated* January 1962.	L/1313, W.17/13, L/1746, L/2953

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
22.	26.5.61	31.12.64 XXVIII:1 reneg.	Australia	Piece-goods and non-pile fabrics, woollen	Compound duties (piece-goods) and ad valorem duties (fabrics), replaced by higher temporary duties	Italy, United Kingdom, France, Germany, Japan, Benelux. EEC was *compensated*	L/1497, AIR/243, L/1546, L/1612, L/1638, L/2455, SECRET/156/Add.4
23.	14.12.61		Nigeria	Cement	Import licences prohibited, except for contracts concluded prior to 14.12.61.	Germany, Israel, United Kingdom	L/1781
24.	17.6.62	1.2.74 (concession partly restored 11.1.67, 1.5.72, 1.2.73)	US	Sheet glass (principally window glass)	Increased specific duties varying with type of glass	EEC; UK; Japan (*compensated* December 1962); Sweden (*compensated* December 1967), EEC took *Article XIX:3 action* 4.6.62; partly restored 1.6.67: fully restored 1.1.73	L/1509, & Add.1-3, L/1803, L/1951, L/1959, L/2743, L/2784, L/2953, L/2959, L/3316, L/3317, L/3664, L/4188
25.	17.6.62	1.1.73 (concession partly restored January 1972)	US	Wilton and velvet carpets	Ad valorem duty increased	EEC, Japan, Sweden. *Compensation* to UK and Japan December 1962. *Art. XIX:3 action* by EEC: see preceding item.	L/1530 & Add.13, L/1803, L/1951, L/1959, L/2953, L/3378, L/4188
26.	9.7.62	11.1.64 (New tariff introduced)	Australia	Timber	Non-discriminatory global quota licensing on basis of 25% of imports in the 2 year period ending 30.6.62. Firm orders at 8.7.62 licensed with debit where necessary against future quotas for the relevant timbers.	Canada, Brazil, British Borneo, Malaya, United States	L/1812 & Corr.1 & Add.1-2
27.	31.7.62	May 1967 XXVIII renegotiation (Kennedy Round)	Australia	Parts for refrigerating appliances	Additional specific duties for some parts, additional ad valorem duty for others, on top of bound ad valorem rate	United Kingdom, United States	L/1819, L/2791, SECRET/156/Add.7
28.	3.8.62	4.6.63	Australia	Antibiotics	Non-discriminatory quantitative licensing on an administrative basis. Licensing periods of 6 months. For certain antibiotics: 1 imported unit per each 9 locally-produced units purchased after 2.8.62. For others, licences issued at annual rate of 20% of 1961-62 imports.	France, United Kingdom, United States	L/1820 & Add.1
29.	12.10.62	May 1967 XXVIII renegotiation (Kennedy Round)	Australia	Forged steel flanges	Additional ad valorem duty	Germany	L/1863, L/2791, SECRET/156/Add.4

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
30.	5.11.62	28.2.64 (new tariff introduced)	Rhodesia; from 1.1.64 Southern Rhodesia only	Cotton & rayon piecegoods	Import restrictions on products of a certain weight and valued under a certain f.o.b. price per sq.yd.		L/1898, L/2213
31.	27.2.63 (1)	22.4.65 XXVIII renegotiation (Kennedy Round)	Australia	Linseed oils	Duty-free entrance and specific duties (depending on tariff item) replaced by increased duties	Argentina, India	L/1981, L/2455
32.	23.2.63 26.2.63	November 1966	Peru	Lead arsenate and valves, respectively	Specific duty introduced on duty-free lead arsenate; increased specific duty on valves	United States	L/1979, L/1896
33.	24.2.64 (2)	9.3.64	Austria	Chicken eggs	Suspension of liberalization		L/2148 + Add.1
34.	15.2.64	31.12.70	France	Foundry pig-iron	Introduction of specific duty, whenever higher than the ad valorem duty. Minimum protection reduced November 1966. Action was recommended by ECSC, but affected only France's and Italy's obligations. Disinvocation was made by EEC.	Benelux, Australia, Canada, Germany, Norway, Spain, Sweden, Finland, United Kingdom	L/2139, L/2183, L/2197, L/2531, L/2532, L/2536, L/2719, L/2731, L/3165, L/3170, L/3505
35.	15.2.64	31.12.70	Italy[7]	Foundry pig-iron	As above	Germany, Spain	L/2197, L/2536, L/2719, L/3505
36.	14.5.64	March 1968 XXVIII:4 renegotiation	Australia	Heat-resisting glassware of a minimum price	Specific duty introduced for imports valued over certain f.o.b. prices	France, United Kingdom, United States; EEC *compensated*	L/2220, C/M/21, AIR/529, C/M/33, Spec(67)6, L/2985
37.	10.12.64	1.1.82	Germany	Petroleum and shale oils etc.	Import licences introduced		L/2321 & Corr.1
38.	4.3.65	1.9.65	Australia	Copper, brass sheet and strip	Quantitative restrictions introduced during a period of temporary shortage of Australia-produced unwrought copper		L/2373, L/2474
39.	22.4.65 (3)	31.5.71	Greece	Tyres	Specific duties replaced by higher ad valorem duties. Increase reduced in April 1966	United States, which was *compensated* in May 1971; Norway	L/2431 & Add.1, letter from Greece 13.1.75
40.	14.1.66	1.1.69	Australia	Polyethylene twine, cordage rope and cable	Quantitative restrictions introduced	Japan	SECRET/162, L/2961 & Add.1; see also item 48.

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
41.	29.4.66	24.6.1982	Australia	Alloy steels	Additional specific duty, less 40% of f.o.b. price	Benelux, United States, Japan	SECRET/163, L/5343
42.	30.6.66	May 1980	Spain	Cheese	Individual licensing, and temporary ban on imports, followed 5.6.70 by agreement with EEC liberalizing certain items via regulating duties subject to threshold prices. Certain items required certificate (issued for some items by Spain; for others by exporting country but approved by Spain). For some items Spain opened global quota, distributed quarterly on basis of imports in 1963/64/65, the EEC counting as a whole. Regulating duties increased in March 1972, pending consultations with principal supplying countries concerning new threshold prices	EEC, Norway	L/2670, L/3407 & Add.1; See also item 105
43.	2.2.67	Date of termination unknown	Spain	Synthetic rubber	Tariff heading sub-divided into two; 15% provisional customs duty imposed on synthetic rubber based on polybutadiene.	United States *(compensated* 21.3.69), Canada *(compensated* 12.11.70) and EEC *(compensated* 4.3.70)	L/2820 & Add.1-4, L/3323 & Add.1, L/3375
44.	21.4.67	1.7.89	Australia	Used 4-wheel drive vehicles	Quantitative restrictions imposed	United States	L/2787 & Add.1, NTM Inventory
45.	14.11.67	1.1.68	Austria	Matches	Quantitative restrictions within the limits of a global quota open to all contracting parties		L/2920 & Add.1
46.	17.11.67	31.12.68	Canada	Turkeys	In view of threat of imports from US, special valuation levied for imports at distress prices to protect against being sold at less than cost	United States	L/2924 & Add.1
47.	19.12.67	1.9.72	Australia	Knitted coats and the like	Quantitative restrictions imposed	Japan, EEC	L/2957, L/3834
48.	4.1.68	1.1.69	Australia	Polypropylene twine, cordage and cable	Same as for item 40	Japan, United States	See item 40.
49.	17.3.68	30.12.71	France	Horsemeat	Quantitative restrictions imposed. Global quota initially opened from 1.4.68 to 31.8.68, distribution of which was based on 1967 imports	Argentina, Canada, Poland, Spain	L/3000, L/4182

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
50.	15.7.68	1.3.69	Austria	Oilcakes	Specific duty imposed	Argentina; United States (which *proposed Article XIX:3 action* 12.12.68 (not implemented))	L/3046 & Add.1-4
51.	12.9.68	2.11.68	Canada	Potatoes	"Action" taken under Section 40-A-7(c) of Canadian Customs Act on imports entering Western Canada. (Reference to this Act was made in respect of item 46 when special valuation was introduced.)	United States, *compensated* through advanced implementation 1.10.68 of Kennedy Round reduction of duty on cranberries	L/3066 & Add.1
52.	30.10.68	31.12.68	Canada	Corn	Idem, for whole of Canada	United States	L/3097 & Add.1
53.	19.5.69	Partial termination Aug. 1969; date of complete termination unknown	Italy	Raw silk	Measure adopted at Community level. Notification stated, *inter alia*, that EEC Council decided in 1968 to support Italian efforts *inter alia* by reintroducing, over 1.1.70 to 31.12.76, existing Common External Tariff customs duty on raw silk and establishing EEC duty-free quota for raw silk equal to difference between demand for and production of raw silk within the EEC; and by applying same Common External Tariff duty on permanent basis from 1.1.76, if in 1976 Italian silkworm cocoon production made possible production of at least 1,000 tons/yr of raw silk. Partial removal in August 1969 concerned silk waste.		L/3231 & Add.1
54.	9.6.69	1.9.72	Australia	Knitted shirts	Quantitative restrictions introduced		L/3217, L/3834
55.	21.2.70	20.2.74	US	Pianos	Increased ad valorem duty	Japan, EEC	L/3314, L/3371 & Add.1, L/4005
56.	7.5.70	16.6.73	Canada	Motor gasoline	Resulting from conditions under which increasing quantities of motor gasoline had been entering the Ontario market, discretionary licensing introduced for imports into Canada (east of Province of Manitoba). Not envisaged that overall volume would be significantly affected.	United States	L/3400, L/3877

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
57.	2.6.70	29.11.71	Canada	Men's and boys' woven fabric shirts	Surtax applied for imports from all countries except for products in transit on or before 2.6.70 and except for shirts subject to export restraint or equivalent intergovernmental arrangements. To limit restrictive impact and ensure equity, quantitative exemptions established for countries with recent substantial interest "consistent with that set out in Annex B of the [Cotton Textiles Arrangement]". Surtax was the lesser of either twice the amount by which Can$24 per dozen exceeded the f.o.b. price or Can$24.		L/3402, L/3613 & Add.1. See also items 60 and 82.
58.	1.1.71	21.3.71	Israel	Radio equipment	Increased ad valorem duty		L/3424 & Add.1
59.	21.5.71	21.7.71 and 18.8.71 (for frozen strawberries)	Canada	Fresh and preserved frozen strawberries	Surtax	United States, Mexico	L/3539 & Add.1-2
60.	30.11.71	31.12.78 (subsumed in action No. 82)	Canada	Men's and boys' shirts, woven or knitted	Global quotas with country reserves for imports under a certain price.	Hong Kong, Japan, Korea, Macao, Malaysia, Poland, Romania, Singapore, Trinidad and Tobago	L/3613 & Add.1, L/4143 & Add.1, L/4453/Add.4. See also items 57 and 82
61.	1.5.72	30.4.76 and 30.4.79	US	Ceramic tableware articles	Various increased compound duties for imports valued under or between certain prices depending on the article. Some high-value goods also included. Action terminated on 30 April 1976 for earthen and china steins and mugs and lowpriced earthen tableware, and on 30 April 1979 for certain high-priced earthen dinnerware or other tableware, and for certain low-priced and medium-priced china tableware.	Japan, EEC	L/3678, L/3700 & Add.1 & 2, L/4326, C/M/78. Replies to GATT/AIR/112
62.	1.4.73	31.12.73	EEC	Tape recorders	Import licences limited to a certain quantity; action taken by EEC but applied to Italy	Japan, Korea	L/3847, L/3892, L/3977, C/M/86, SR.29/1
63.	30.6.73	3.8.73	Canada	Fresh cherries	Surtax introduced	United States which was *compensated*	L/3887 & Add.1-6

Nº	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
64.	1.5.74	30.4.78	US	Ball bearings	Increased ad valorem or compound rates, depending on the item, if valued not over certain unit prices	Japan, Canada, EEC	L/3897, L/4016 & Add.1-3, C/M/95. Replies to GATT/ AIR/1128
65.	12.8.74	1.1.76	Canada	Cattle, beef, veal	Annual global quotas, based on 5-year average US imports. First quota for 12.8.-30.9.74, thereafter quarterly; administered so as to ensure that relative shares of each of Canada's main suppliers would bear a reasonable relationship to past patterns of trade, market trends and historical performances. Measure taken in context of a temporary beef stabilization programme. After 1.1.76 imports from Rhodesia continued to require an individual import licence.	United States. Holding that the action did not provide access for cattle and meat on an equitable basis and failing to reach agreement, *US suspended substantially equivalent concessions* 12.8.74-1.1.76 pursuant to Article XIX:3. Also affected: Australia, New Zealand	L/4072 & Add.1-5, L/4118 & Add.1. Replies to GATT/ AIR/1128
66.	1.10.74	1.1.82 (Partial removal 22.11.77)	Australia	Certain footwear	Quantitative restrictions, to a level of 20% greater than imports in 1972/73. Quotas allocated to established importers without restriction as to source of supply. High-priced footwear exempted from import licensing on 22.11.77.	EEC, Japan, Korea, Malaysia, Spain, India, Hong Kong, Portugal; *retaliation proposed by EEC*	L/4099 & Add.1-26, C/M/ 103, 107, 113, C/M/155 item 1, C/M/156 item 2. See also items 73 and 89.
67.	1.2.75	8.12.76 (partial removal 30.3.75)	Australia	Motor vehicles	Global quotas; removed for light commercial vehicles 30.3.75.	EEC, Japan, United States	L/4149 & Add.1-9, C/M/103, 107, 113. See also item 85.
68.	1.1.75	5.3.76	Australia	Hot-rolled and cold-rolled sheets and plates of iron or steel	Global quotas	Japan, United States	L/4166 & Add.1-7, C/M/105, 107, 114
69.	1.3.75	27.4.88	Australia	Certain apparel	Additional duties in excess of a tariff quota	Canada, EEC, Egypt, Hong Kong, India, Japan, Pakistan, Romania, Sweden, Switzerland, United States	L/4162 & Add.1-3, C/M/103, 105, 114
70.	1.3.75	25.5.76	Australia	Ophthalmic frames, sunglass frames and sunglasses	Quotas allocated to importers without restriction as to source of supply. Each importer granted a licence for a 6-month period equal to no more than half his established quota. (Frames: limitation to 75% of 1973/74 imports; sunglasses to 85% of 1973/74 imports)	EEC, Japan	L/4169 & Add.1-6 & Corr.1, C/M/107, 113

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
71.	1.4.75	18.3.76	New Zealand	Woven polyester fabrics (extended coverage May 1975)	Import licences. Allocations for 1975-76 were 60% of 1973-74 import volume. Certain items remain under control after termination of the action. Licence allocation to be 100% of 1976-77 volume levels.	Japan, United States	L/4172 & Add.1-5
72.	1.1.76	31.8.78	Canada	Worsted spun acrylic yarns below a certain price	Global quota for products under a certain export price (determined in accordance with the Anti-Dumping Act). Permits already issued for Jan.-June 1976 delivery were honoured and included as part of quota; distribution of import permits was based on historical performance of importer over two years ending 31.3.76. 10% of quota allotted to importers without historical performance in this period. Gradually phased out as from 30 June 1978.	Japan, Korea	L/4344 & Add.1-2
73.	1.5.76	1.1.82 (Partial removal 22.11.77)	Australia	Sand boots and shoes; parts of footwear	Included within scope of restrictions under item 66. Footwear already subject to licensing maintained at 140% of 1972-73 volume. Sand boots/shoes incorporated into non-leather footwear licensing category (quota for which was consequently increased). This additional quota allocated to individual importers after account taken of goods in bond and in transit as at 7.5.76; base period for this allocation widened to include imports 1.7.74-31.12.75, and quotas thus allocated could be used to import sand shoes/boots and other non-leather footwear (quota available for non-leather footwear could also be used for sand shoes/boots). Licensing controls on imports of parts for footwear restricted annual import value to 140% of 1973-74. Allocations to individual importers made on basis of 1973-74 imports after account taken of goods in bond and in transit. High-priced footwear exempted from import licensing on 22.11.77.	Sand boots and shoes: Korea. Parts: Germany, Italy, Portugal	L/4099/Add.3 and 6, Add. 16, Add.23. See also items 66 and 89.

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
74.	25.5.76 (4)	31.12.78	Australia	Files and rasps	Quotas allocated to importers on the basis of import performance in 1974 and 1975 and without restriction as to source of supply	United States	L/4351 & Add.1-3. Letter (unpublished). See also item 92.
75.	14.6.76	13.2.80	United States	Specialty steel	Orderly marketing agreement (signed 11.6) with principal supplier (Japan) covering three years, plus three-year restraints on imports from other foreign suppliers. Quota system replaced by a transitional one, with progressively larger bi-monthly quotas, 12 June 1979	Japan, Argentina, Austria, Sweden, Canada, Finland, France, UK, Germany, Korea, Mexico, Spain, Norway	L/4314, L/4318, L/4368 & Add.1-57, C/M/112, 113, 114.
76.	1.7.76	27.4.88	Australia	Knitted and woven dresses	Additional specific duties for imports in excess of tariff quota, applied to import clearances after 1.7.76		L/4364/Add.1
77.	1.7.76	31.12.78	Canada	Work gloves	Three-year global quota for imports under a certain export price (determined in accordance with Anti-Dumping Act). Sub-quota for 100% cotton gloves (as opposed to leather gloves) based on actual imports during 1975. Quota divided quarterly. Permits distributed according to historical performance of importers 1.1.74-15.6.76. 10% allotted to importers with no or little historical performance	Hong Kong	L/4382 & Add.1
78.	7.7.76	23.12.76	Canada	Textured polyester filament yarn	Surtax for imports exported at less than a specified value, applied on m.f.n. basis among exporting countries. Surtax equal to difference between export price as defined in Anti-Dumping Act and values as specified for four different categories.	United States	L/4374 & Add.1-3
79.	10.8.76	9.8.79	Australia	Electrical chest freezers	Global import licensing, applying to all imports other than those under existing special trading arrangements provided for in New Zealand Australia Free Trade Agreement, which were "administered separately". Licences allocated on basis of importers' performance 1.7.74-30.6.76	EEC	L/4387 & Add.1; Letter, unpublished

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
80.	8.10.76	9.10.79	Canada	Double-knit fabrics	Global quota distributed among importers semi-annually based on their individual historical import performance. (Prior to action there were restraint arrangements with a number of countries renewed annually as from 1972.)	Japan, United States, Singapore, Hong Kong, Malaysia	L/4450 & Add.1-5, C/M/123
81.	18.10.76	31.12.76	Canada	Beef and veal	General import permit replaced by individual permit control. Permits issued on basis of global quota allocated among supplying countries in accordance with their market shares in the base period (not specified)	New Zealand	L/4437 & Add.1, C/M/117
82.	29.11.76	31.12.78	Canada	A range of clothing items	Global quotas at 1975 levels, administered (other than for outerwear) on basis of importer's 1975 performance in each product category. Goods in transit on or before 29.11.76 exempted from quota. All existing quota and restraint arrangements were suspended by these measures. Outerwear imports limited to 2.3 million units from all sources	Austria, United States, Hong Kong, Korea	L/4453 & Add.1-4
83.	27.12.76	31.12.79	Finland	Women's panty hose	Surcharge equivalent to difference between a basic price and import price applied non-discriminatorily on all imports taking place under that price	Singapore, United Kingdom	L/4461 & Add.1-2, C/M/119
84.	28.6.77	30.6.81	US	Footwear	Agreement with Korea 21.6.77 in which Korea will carry out export restraints for a period up to 1.7.81 and be assisted in this by US import restrictions for certain items.	Korea	L/4477 & Add.1, L/4525 & Add.1, C/M/112, C/M/119 item 16, C/M/124
85.	12.7.77	1.1.85	Australia	Passenger motor vehicles	Global quotas	EEC, Japan; *retaliation proposed by EEC*	L/4526 & Add.1-25, C/M/ 123, C/M/155, item 1, C/M/156 item 2; see also item 67
86.	22.7.77	22.6.79	EEC	Portable TV sets from Korea	Annual quotas applying only to imports into United Kingdom. On 22 June 1979 a VER came into effect.	Korea, other suppliers: Japan and Singapore	L/4613 & Add.1, C/M/112, 124 and 134, SR.34/1

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
87.	23.9.77	8.11.79 (Partial removal 22.2.79)	Australia	Brandy	Temporary additional specific duties increasing the margin between customs and excise rates existing at the time of binding (1947). Tariff quotas applied at level equivalent to 40% of 1975/76 imports. A further temporary specific duty above the tariff quota. Tariff quotas allocated on basis of imports 1.9.76-31.8.77. (Identical measures applied to whisky imports.) Same basis used for quotas after 22.2.79. Cognac exempted from measures as from 22.2.79 (L/4569/Add.8).	EEC (France, Germany, Italy), Cyprus, Greece, Spain, Yugoslavia	L/4569 & Add.1-12
88.	10.11.77	9.5.79	Australia	Fixed resistors	Import licences; entitlements determined as one unit (after 10.5.78 two units) of import quota for each unit purchased or irrevocably committed for delivery from Australian production; irrevocable commitments as at 22.9.77 allowed entry on special licences valid for sixty days from 10.11.77. Goods in transit or in bond allowed entry on special licences if entered within 21 days of date of the announcement or arrival. Licences transferable between individual importers under certain circumstances.		L/4603 & Add.1
89.	22.11.77	1.1.82	Australia	Thongs, gumboots and sporting footwear (see items 66 and 73)	Thongs with value for duty below certain prices plus parts thereof, included within scope of existing quantitative restrictions (with value between certain prices quota is 100% of imports; for parts 100% of 1976/77 imports). Import licensing procedures for certain specialist sporting footwear and gumboots (because of administrative difficulties regarding definitions). Exemption of high-priced footwear from import licensing (removed on 1.9.80). "Threshold" price level to be adjusted each 6 months in accordance with movements in footwear component of Australian consumer price index.	EEC	L/4099/Add.4-26; See also items 66 and 73.

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
90.	1.12.77	30.11.81 (partial removal July 1980)	Canada	Footwear, other than footwear of rubber or canvas	Global quota at levels corresponding to annual average 1974-76, administered by permits to importers having imported 1.9.76-31.8.77 at pro rata share calculated on performance during base period. Committee was to distribute small amount reserved to meet unforeseen circumstances. Removal of certain specialized footwear notified in July 1980. Global quota (total amount unchanged) extended up to 30.11.1981. Importers who had imported under the quota system were entitled to pro rata share of total quota based on performance during first two years of quota.	EEC, Brazil, US, Korea, Poland, Romania, Spain, United States; *retaliation proposed by EEC* (see Add.41)	L/4611 & Add.1-50, SR.34/1
91.	1.3.78	27.4.88	Australia	Wool worsted yarns	Global tariff quotas (additional specific duty). Base period for individual importer's quota entitlements will be the twelve month period ending 30 November 1977. Initial quota allocations for six month period beginning 1 March 1978 valid for twelve months.	EEC	L/4659 & Add.1-5
92.	29.3.78 (5)	31.12.78	Australia	Round blunt chainsaw files	Included in action on files and rasps		L/4351/Add.2 & 3; unpublished letter; See item 74.
93.	11.4.78	10.4.81	US	CB radio receivers	Increased ad valorem duty to be phased down in three decrements and phased out 10 April 1981. The items were also removed from GSP.	Japan, Korea	L/4634 & Add.1-2
94.	21.4.78	18.2.82	Australia	Double-edged safety razor blades	Quantitative restrictions for two years. In first year imports restricted to sixteen million, individual importer's quota allocations based on twelve-month period ended 31.12.77. Allocations for second year to be announced later.		L/4666 & Corr.1 & Add.1
95.	26.5.78	15.5.80	EEC	Preserved cultivated mushrooms (CCCN 20.02A)	Suspension of import licences. Not applied to third countries which could assure that their exports did not exceed a reasonable quantity. Measure amended several times 1978-79 and suspended after principal suppliers had given necessary assurances. From 16.5.80 surveillance introduced.		L/4678, L/4994, L/5105. See items 104 and 106.

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
96.	1.7.78	30.4.80	Australia	Hot and cold rolled and galvanized sheets and plates of iron and steel	Global quota, allocated on basis of clearances during 1977		L/4696 & Add.1
97.	17.11.78	Nov.1982	US	High-carbon ferrochromium	Additional specific duty for products with customs value below a certain price	South Africa, Rhodesia, Japan, Yugoslavia, Brazil (bound to Canada and Rhodesia)	L/4702 & Add.1-6 (Letter by US Delegation of 18 March 1982)
98.	1.1.79	30.6.84	Norway	Various textile items	Global import quotas calculated on average imports 1974-76 from countries included in the quotas. Nondiscriminatory allocation to importers according to 1976-77 shares. Six bilateral agreements in force from 1.1.78 for 4 to 5 years could not be suspended by unilateral action and were not included in quotas. EFTA and EEC imports also excluded. 1980 (half-year) quotas adjusted to "revised and more precise conversion factors and changes in market demand".	Hong Kong, United States; Hong Kong brought dispute under Article XXIII:2.	L/4671, L/4689, L/4692 & Add.1-19, L/4815, C/M/126-128, 134, 135, 139 and 141. Panel report L/4959, BISD 27S/119
99.	6.1.79	Jan. 1982	US	Lag screws or bolts	Increased ad valorem tariff for two items; for two other items ad valorem duties introduced in addition to an existing specific duty.	Japan, Canada, EEC	L/4742 & Add.1-27
100.	8.1.79	31.12.80	Iceland	Furniture, cupboards and cabinets, windows and doors	Import deposit (35% of invoice amount, blocked for ninety days). Deposit not required in case of amounts below IKr 20,000 per transaction.		L/4771
101.	23.2.79	23.2.84	US	Clothespins	Global quota for imports valued above a certain price. Separate quota allocation for three different price brackets. Allocations may be shifted from unfulfilled to filled categories	Poland, Germany, Romania, Netherlands	L/4759 & Add.1-3
102.	17.1.80	17.1.84	US	Porcelain-on-steel cooking ware	Additional specific duty, to be phased down and out over four years, applied to all ware below a certain price	Japan, Spain, Korea, Italy, France, (Mexico)	L/4889 & Add.1-15, Letter and memorandum concerning compensation from Spain (not published)

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
103.	21.2.80 (retroactive to 1.1.80)	31.12.80	EEC (UK)	Yarn of synthetic fibres	Import authorization from third countries required up to maximum quantities set for polyester yarns and polyamide yarns. Exempted from measure: imports of about $65 million from third countries which enter EC under free-trade agreement or under agreement concerning trade in textiles	US, Canada, Japan; *Compensation* to the US paid in the form of prior-to-schedule MTN tariff reductions on imports from US (Took place on 1.9.80 instead of 1.1.1981)	L/4942 & Add.1-6; Unpublished letters from EEC and US of 4.2.81
104.	15.4.80	31.12.84	EEC	Cultivated mushrooms in brine [CCCN 07.03E]	Import subject to production of an import document, issued to traditional importers on the basis of 1977-78 imports, within limits fixed periodically by the Commission. Provision made for licences to new suppliers	Hong Kong, Spain	L/4994 & Add.1. See also items 95 and 106; see OJ L330/1 of 18.12.84
105.	7.5.80 (6)	Dec. 1980 (Art. XIX action replaced by VERs)	Spain	Cheeses	Partial suspension of liberalization.	EEC, Austria, Finland	L/4978 & Add.1-2 See also item 42.
106.	16.5.80	31.12.80	EEC	Cultivated mushrooms originating in Hong Kong and Spain [CCCN 20.02A]	Licences refused until solution found to difficulties (after imports liberalized 16.5.80, EEC market was exposed to threat of serious injury as a result of licence applications for imports from these countries substantially in excess of traditional EEC imports from them).	Hong Kong, Spain	L/4994 & Add.1, L/5105, L/5207. See items 95 and 104.
107.	15.9.80 (7)	1.4.82	Australia	Certain works trucks and stackers	Licensing limited to $3 million for all goods specified: $1 million for 1.4.-30.9.80 and $2 million for 1.10.80-31.3.81. Importers' quota entitlements based on performance in calendar year 1978, transferable between products and importers. Quotas applied to imports from all sources, but goods of Papua New Guinea origin (PATCRA goods) exempted.	EEC, Japan	L/5026/Rev.1 & Add.1-20
108.	1.11.80	1.11.83	US	Preserved mushrooms	Increased duties for three years	Canada	L/5027, L/5088 and Add. 1-16

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
109.	1.12.81	30.11.88 (full termination); partial termination 30.11.85 (see Add.19 and 25)	Canada	Non-leather footwear	Global quotas	EEC, United States, LDCs (Korea); *retaliation proposed twice by EEC* (see Add. 8 and 21)	L/5263 & Add.1-36
110.	3.8.81	20.11.81	EEC (UK, Ireland)	Frozen cod fillets	Embargo for products below certain reference price	Canada	L/5193 & Add.1-4
111.	9.7.82	30.11.88 (full termination); partial termination 30.11.85 & 1.4.86 (see Add.20, 27, 30)	Canada	Leather footwear	Global quota; later exemption of higher priced footwear (see Add.9).	EEC, Brazil, Spain, US; *retaliation proposed twice by EEC* (see Add.3/Rev.1 and Add.22)	L/5351 & Add.1-39
112.	27.8.82	31.12.83	Australia	Hoop and strip of iron and steel	Tariff quota		L/5365 & Corr.1 & Add.1
113.	3.9.82	10.10.82	Switzerland	Dessert grapes, fresh	Increased tariff	EEC	L/5364, L/5371
114.	15.10.82	15.3.83	Canada	Yellow onions	Tariff surtax	US	L/5392 & Add.1-10
115.	13.10.82		EEC	Dried grapes	Compensatory tax	Australia, US	L/5399 & Add.1-50
116.	1.1.83	16.4.83 (replaced by VER)	EEC (France, UK)	Tableware and other articles ..., of stoneware	Global quota	Korea; as from 16.4.83 Korea undertook to make exports of these products to France and UK subject to export licences and set quantitative limits for calendar years 1983-85 (see Commission Reg. No 873/83, OJ L 96/8, 15.4.83)	L/5447 & Add.1
117.	1.4.83	9.10.87	US	Heavyweight motorcycles	Increased duties	Japan	L/5493 & Add.1-17

Nº	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
118.	20.7.83	30.9.89	US	Specialty steel	Additional tariffs and quotas	EEC, Brazil, Korea and others (*OMA*s concluded with Austria, Argentina, Canada, Japan, Poland, Spain, Sweden); *action under Article XIX:3(a) by Canada* concerning quota restriction (see Add.10 and 31) and *EEC* covering tariff and quota restriction (see Add.15, 50 + 74)	L/5524 & Add.1-128
119.	19.7.83	24.2.88	Australia	Certain filament lamps	Increased duties	Hungary, US, others	L/5526 & Add.1-18
120.	5.8.83	19.6.85	Australia	Non-electrical domestic refrigerators	Increased duties		L/5529 & Add.1-2
121.	20.4.84	31.12.86	EEC (France)	Certain electronic piezo-electric quartz watches with digital display	Global quotas (see Regulation (EEC) Nº 1087 of 18.4.84)	Hong Kong, Japan, Korea, Macao, Taiwan	L/5645 & Add.1-16
122.	25.7.84	1.1.89	Chile	Sugar	Tariff surcharge		L/5672 & Add.1-4
123.	2.11.84		South Africa	Certain footwear	Increased duties; suspension of existing binding		L/5725, L/6318 (amendment of L/5725)
124.	27.11.84	1.1.89	Chile	Wheat	Additional specific duties		L/5861 & Add.1-5
125.	1.1.85	31.12.85	Canada	Fresh, chilled and frozen beef and veal	Global quota	Australia, EEC, New Zealand, Nicaragua; *retaliation proposed by EEC*	L/5767 & Add. 1-10, L/5785
126.	18.6.85	13.7.89 (replaced by No. 141)	EEC	Morello cherries (processed)	Charge on imports below a minimum price; see Regulation (EEC) Nº 1626/85 of 14.6.85	Hungary	L/5841 & Add.1-3
127.	9.8.85		South Africa	Malic Acid	Increased duties; suspension of existing binding		L/5860
128.	28.9.85	1.1.89	Chile	Edible vegetable oils	Increased duties		L/5935 & Add.1-3

Nº	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
129.	17.1.86	21.9.91	EEC	Provisionally preserved raspberries	Charge on imports below a certain price; see Regulation (EEC) Nº 67/86 of 15.1.86		L/5957
130.	19.4.86	1987 (date not supplied)	EEC	Sweet potatoes	Suspension of issue of import certificate; see Regulation (EEC) Nº 1146/86 of 18.4.86		L/5988
131.	6.86		South Africa	Tall oil fatty acids; Certain pipettes, flasks etc.; Certain high carbon steel wire; Certain sparking plugs	Increased duties		L/6002
132.	2.6.86	14.11.86	Finland	Porous fiberboard impregnated with bitumen	Import surcharge		L/6026
133.	19.3.87	31.10.91	Austria	Broken rice	Quotas	EEC (Italy)	L/6144, L/6144/ Add.1
134.	30.3.87	Terminated; date not supplied	EEC (Spain)	Certain steel products	Quotas; see Commission Recommendation Nº 77/328/CECA of 15.4.77	Canada, Turkey	L/6179 & Add.1-6
135.	20.10.87	15.4.88	South Africa	Optical fibres and optical fibre bundles	Suspension of tariff bindings		L/6228 & Add.1
136.	12.87	31.10.88	EEC	Frozen squid	Suspension of imports at certain price levels	Canada	L/6271 & Add.1
137.	5.88	Terminated; date not supplied	EEC (Portugal)	Refrigerators and freezers	Quotas; See OJ C/116 of 3.5.88		L/6344
138.	13.7.89		EEC	Processed cherries	Charges on imports under certain conditions; See Regulation (EEC) Nº 1989/89 of 4.7.89		L/6560 & Add.1-5
139.	19.3.90	4.94	Austria	Prepared fowls other than in containers of glass or airtight metal containers	Import quotas; initial restriction for last 6 months of 1991 extended to 30 June 1992 and then to 30 June 1993		L/6653 & Add.1-2

Nº	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
140.	1.1.91	25.9.91	EEC	Certain semi-processed red fruits	Charges on imports under certain conditions; see Regulation (EEC) Nº 3797/90		L/6820 & Add.1
141.	1.1.91	30.4.92	EEC	Provisionally preserved cultivated mushrooms	Maximum import quantity allocated by means of import licences; see Regulation (EEC) Nº 809/91		L/6821 & Add.1
142.	1.9.91	4.94	Austria	Certain types of cement and certain preparations containing cement	Import quota; increased for period 1 Sept. 1991 - 31 Dec. 1992. Country-specific quotas of 300,000 tonnes in total for 11-month period starting 1 February 1993 for imports from Poland, Romania, Czech Republic and Slovak Republic; additional global quota of 100,000 tonnes introduced for twelve-month period starting 1 April 1993. Imports originating in EC or EFTA member States exempted.	Poland, Romania, Czech Republic and Slovak Republic	L/6899 & Add.1-8, Add.7/Suppl. 1; C/M/252
143.	18.9.91	31.12.91	Czech & Slovak Republic	Agricultural products: live bovine animals, beef, butter, potatoes, starches and inulin, rape or colza seeds and oil, margarine, glucose and glucose syrup, molasses, grape wine	Global import quotas	Waiver of Article II granted 4 December 1991 for renegotiation of Schedule X	L/6907, L/6968
144.	9.11.91	31.5.92	EEC	Atlantic salmon	Minimum import price	Norway, Canada, Chile	L/6977
145.	8.4.92	31.12.92	Hungary	Cement	Temporary surcharge		L/6996
146.	8.4.92	31.12.92	Hungary	Intra-ocular lenses	Import quota		L/6996
147.	15.11.92	11.93	Hungary	Certain paper products	One-year import quotas administered by license on first-come-first-served basis; quotas apply for imports from all sources except Finland and EC.		L/7123

N°	Date introduced	Date terminated	Contracting party	Product	Measure taken	Affected countries, territories or customs unions, compensation, retaliation	References
148.	26.2.93	30.6.93	EEC	Whitefish (Cod, haddock, coalfish, hake, monkfish)	Minimum price for imports; extended on 13 March 1993 to cover Alaska pollack.		L/7194
149.	15.4.93	11.93	Austria	Certain types of fertilizers	Global import quotas of 30,000 tonnes for mixtures of ammonium nitrate with calcium carbonate or other inorganic non-fertilizing substances, 30,000 tonnes for fertilizers containing nitrogen, phosphorus and potassium, for 1-year period starting 15 April 1993; imports originating in EC or EFTA member States exempted.	Czech Republic, Romania, Slovak Republic	L/7204 & Add.1-4, L/7204/Suppl.1
150.	21.6.93	31.12.94	Canada	Boneless beef	Surtax of 25 percent of value for duty applied on boneless beef imports in excess of 48,014,000 kg; imports originating in US exempted.	Australia, New Zealand	L/7219 & Add. 1-18

NOTES:

(1) Date of notification to the secretariat.
(2) Date of L/ document.
(3) Date of notification.
(4) Date of communication.
(5) Date of communication.
(6) Date of notification.
(7) Date of notification. Backdated to quota year starting 1.4.80.