

The decision to provide for no such relief would be a difficult one. The question at issue may rather be, therefore, the manner in which such recourse can be effectively tempered so as to ensure that the interests of particular individuals or companies are not given undue weight in the determination of government policy which will affect a much wider selection of the population. Clearly some international rules can be helpful to governments in collectively resisting pressures for action.

4. Traditionally safeguard actions have taken the form of either a quantitative limitation on imports or an increased tariff or surtax which has the effect of moderating the flow of imports. Another way of providing safeguards relief is through the negotiation of so-called "voluntary restraints" whereby the exporting country agrees to limit its exports to another country. In order to avoid unilateral imposition of a measure, perhaps in harsher form by the importing country and to retain the economic rents arising from quota allocations, these latter measures have become increasingly prevalent in recent years. It is this type of arrangement that has been used to restrict the flow of automobile exports from Japan to North America, and to control international trade in textile and clothing products.

BACKGROUND

Current Undertakings in Safeguards

5. Currently, GATT Article XIX establishes the basic rights and obligations of Canada, the United States and other GATT contracting parties regarding the taking of safeguard action affecting bilateral trade. As applied, Article XIX gives the right to a GATT Contracting Party to take a safeguards action provided it can demonstrate that the product against which the action is brought is being imported "in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products". The right to take safeguards action is only "to the extent and for such time as may be necessary to prevent or remedy such injury". Safeguard actions are only to be used in emergency situations and there is a requirement that such action will only be maintained for a limited time necessary to prevent or remedy the injury. There is a requirement for prior notification and consultation with those Contracting Parties "having a substantial interest as exporters of the product concerned", except in situations "where delay would cause damage which it would be difficult to repair" in which case action "may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action". The final key provision of Article XIX gives "affected contracting parties" the right to "suspend", "substantially equivalent concessions or other obligations". Furthermore, such suspension is required to be against only the country taking the safeguard action. This is in contrast to the requirement that the party invoking Article XIX itself do so in a