17. The quasi-judicial Section 201 process is expensive for both petitioners and foreign producers. Some major Section 201 investigations have involved millions of dollars in legal fees. Moreover, from the perspective of the domestic petitioner the results are uncertain both with respect to an injury finding and the discretionary authority which rests with the President.

18. The USA/Israel Free Trade Area agreement and the Caribbean Basin Economic Recovery Act provide for import relief action with respect to imports of products in such increased quantities as to be a substantial cause of serious injury or threat thereof. In the case of the Caribbean Basin legislation, covered products are exempted from Section 203 measures unless the USITC makes an affirmative determination that injury is directly attributable to imports eligible for duty-free treatment under the agreement. There is provision for exempting Israeli products from import relief measures of general application if the U.S. considers that imports of the product in question from Israel are not a significant cause of the serious injury. The USITC must include in its Section 201 report to the President, advice on whether and to what extent its injury findings and recommended relief apply to imports from Israel. In addition, under both the Caribbean Basin and Israel agreements, there is a special fast track procedure permitting emergency action by the Secretary of Agriculture with respect to perishable agricultural products pending the results of a full scale investigation under Sections 201-203 of the Trade Act of 1974, as amended.

Handling of Safeguards in Other Bilateral Free-Trade Agreements

19. The provisions of the Stockholm Convention of 1960 which created the European Free Trade Area (EFTA) are of some relevance to the discussion of Canada-U.S. free trade. Article 20 of the EFTA Convention of 1960 dealing with difficulties in particular sectors, establishes a mechanism for the taking of safeguard actions in trade between EFTA countries. The article was revised in 1980 to require prior concurrence by the EFTA Council before measures can be applied. There have been few cases under the article and it has not been invoked recently. EFTA officials suggest however, that where inter-EFTA trade does create pressure on a sensitive sector, there are usually bilateral "corridor discussions" that "resolve or contain the situation", for example, "through the exporting-country government influencing its private sector". In the case of EFTA it would seem, therefore, that while there is provision for the taking of safeguard action in the free-trade agreement, informal means are more frequently used to resolve such problems.

20. Free-trade agreements between the individual EFTA countries and the European Community do contain a provision for the taking of safeguard action normally following consultations in the Joint Commission established to administer the agreement, or preceding such consultations, in cases of urgency. There is provision for compensatory action for the adversely affected party.