

measure. The U.S., with some justification, regarded this approach as being inconsistent with the spirit, if not the letter, of the Understanding. On the other hand, the Canadian measures on footwear have, over the years, been tailored so as to minimize adverse effects on U.S. export interests and the U.S. has not exercised its rights under Article XIX to suspend concessions. In the case of beef, the U.S. was given advance notice (less than the thirty days envisaged by the Understanding) of the government's decision to restrict imports but again was not afforded an opportunity to consult while the safeguard action was under consideration. However, the Canadian measure was subsequently tailored so as to minimize adverse effects on U.S. export interests and in this situation also the U.S. has not exercised its Article XIX rights to suspend concessions.

The Safeguards System in Canada and the United States

11. Canadian legislation provides various ways in which safeguards action can be taken. It should be noted at the outset that, with the limited exceptions of the textile and clothing sector and of petitions by an affected industry for removal of the general preferential tariff, there is no right of direct petition in Canada for the imposition of safeguards measures by companies, unions or private individuals. This factor renders the Canadian system much simpler than the U.S. system in administrative terms. Section 5 of the Customs Tariff Act permits the Governor-in-Council to impose a surtax on imports for a maximum of 180 days, pursuant to a report by the Minister of Finance that, in his judgement, goods are being imported into Canada under such conditions as to cause or threaten serious injury to Canadian producers of like or directly competitive goods. Such a surtax may be extended with the consent of both Houses of Parliament or following a finding of injury by either the Canadian Import Tribunal or the Textile and Clothing Board. (A surtax may also be imposed immediately upon the basis of an injury finding by either of these two bodies.) Any surtax has a maximum duration of three years and a reimposition of safeguards measures in respect of the same sector can only be done on the basis of a new finding of injury by the Canadian Import Tribunal. The government may also choose to introduce tariff rate quotas (i.e. procedures which provide for a higher tariff once a specified quantity has been imported).

Section 5 (2) of the Export and Import Permits Act permits the Governor-in-Council, on the recommendation of the appropriate minister, to impose quotas on imports based on a finding by the Textile and Clothing Board or the Canadian Import Tribunal that goods are being imported or are likely to be imported so as to cause or threaten to cause serious injury to Canadian producers. The 1982 Meat Import Act provides for limits on imports of fresh, chilled, and frozen beef and veal whenever the government determines that circumstances in both the domestic and world markets combined are likely to cause injury to domestic producers.