

some restraint against unnecessary or unnecessarily drastic action. This check is provided by the requirement for negotiation and by the fact that the right of compensatory withdrawals of concessions by other countries gives them bargaining position. It is likely that, as a result of the consultations, the action proposed will often be more drastic than that finally taken. The cost to the export interests of the country proposing to act under the clause will become clearly evident in the course of the consultations.... As the article is drawn... the determination of compensating measures is left in the hands of the countries concerned."²

The early optimism of Hawkins and the other draftsmen at the London, Havana and Geneva Conferences with regard to Article XIX was misplaced. In the period from 1947 to, say, the end of the Tokyo Round, the obligations of Article XIX were ignored, and ignored on a substantial scale, and they continue to be ignored. It is not our purpose here to re-iterate the complicated and confused history of how countries signatory to the General Agreement contrived and conspired to so frequently ignore this key provision of the system, but for the purposes of our examination of the interface between trade policy and competition policy we may try to summarize a number of the main developments.

First: It is fair to say that the dramatic changes in the location of industrial production which have occurred in the last two decades (e.g. textiles, garments, steel, autos, electronic equipment) were not foreseen by the draftsmen at Havana in 1947. As a recent UNCTAD study observed: "... the draftsmen of Article XIX were primarily concerned with facilitating through the existence of an "escape clause", the negotiation of tariff reductions and the removal of quantitative import restrictions, essentially in trade between developed countries. They took for granted the existing economic structure of a centre of industrialized countries and a periphery of others supplying them with their imports of food and raw materials. They did not take into account the possibility of structural changes affecting major industries, in both world demand and world supply."³ If the 1947 draftsmen, who were, when all is said and done, trying to facilitate the reduction of tariff barriers erected in the 1920s and 1930s, had envisaged the profound changes in the conditions of international competition which have taken place since the late 1950s (when Japan effectively re-entered world markets), they might well have drafted Article XIX in a more detailed more comprehensive fashion; clearly they would have had to address the issue of structural adjustment.

Second: Many producers are unwilling to face the possibility of compensatory withdrawal of concessions as the price to be paid for restricting imports which compete with their products; these producers have used their political leverage to escape from this obligation of Article XIX. The most obvious example is the U.S. textile and garment industries; these two groups of producers persuaded the Administration (of President Kennedy) to work for an internationally-approved regime of bilateral restraints (primarily VER's) as the price for these industries accepting the dramatic tariff cutting proposals of the President's Trade Expansion Act, of 1962.⁴ Thus, in a sense, the price of the Kennedy Round tariff reductions was the Cotton Textile Arrangement (the predecessor of the MFA) which constituted a sort of sanction or cover for bilaterally negotiated restraints on cotton textiles and cotton textile products. The textile and garment industries were not prepared to submit themselves to