

being satisfied that the safeguard action was in conformity with United States' GATT obligations. It was not until the recent action by the United States on specialty steel imports that the Canadian government ever actually used its rights to suspend concessions under GATT Article XIX. In this situation the suspension was revoked when the United States effected compensation in the form of removing cement from the buy-American provisions of the Surface Transportation Assistance Act.

9. Partly as a result of these different views over the interpretation of Article XIX, but more importantly to try and reduce the adverse impact of safeguard actions on the other party, discussions were undertaken between Canadian and American officials to try to work out an improved understanding on how safeguard actions by Canada and the United States ought to be managed in a bilateral context. A Memorandum of Understanding was eventually concluded and was signed on 17 February 1984 by the United States Trade Representative and the Minister for International Trade. The Understanding provides for a 30-day notification period if a party is considering taking a safeguards action. It was intended that this period of time could be used to try to moderate any adverse impact of the intended measure on the other party. Such moderation can be effected by techniques such as alteration of the product-coverage of the measure or through the use of "price breaks" which can be used to exempt goods above a certain value from a safeguards action. Such techniques help provide a de facto form of selectivity while remaining in legal conformity with GATT. A further incentive to tailoring the measure is provided by a provision in the Understanding that the adversely affected exporting party will not normally exercise its rights to suspend substantially equivalent concessions if there is no adverse impact of the safeguard measure on its trade.

Role of Canada/USA Bilateral Understanding

10. There has not been sufficient experience with the Canada/USA Memorandum of Understanding on safeguards to assess fully its role and value. In the period since the Understanding was signed in February 1984, the President has rejected action under Sections 201-203 following two USITC recommendations (carbon steel and copper) which would have had significant adverse trade implications for Canada if implemented. In both cases, there was intensive government-to-government consultation prior to the President's determination providing an opportunity to register fully Canadian views. On the other hand, the U.S. provided no advance notice and did not afford an opportunity to consult with respect to action under Section 22 of the Agricultural Adjustment Act of 1933 to restrict imports of sugar-containing products. Since February 1984, Canada has extended the Article XIX action on footwear and implemented an Article XIX action on beef. In the case of footwear, the U.S. was notified of the extension well in advance of the effective date of the extension but only after the government had taken its decision to extend the