

non-discriminatory manner against all imports of the product concerned. Article XIX is the only provision in the GATT which allows a contracting party the right unilaterally, without prior authorization of the Contracting Parties, to retaliate against only one country.

6. During the Tokyo Round of GATT negotiations, efforts began to negotiate a safeguards agreement elaborating the provisions of Article XIX. While considerable progress was made in developing rules and procedures which would provide greater discipline and clarity on the manner in which safeguards action is taken, the negotiations broke down because of disagreement on the question of "selectivity", i.e. the issue of whether safeguards action should be allowed against imports from only one or several countries which are considered to be the source of injury rather than required against all countries exporting a given product. This issue has been a dilemma in the use of the GATT safeguards provision since the 1950s. The Multifibre Arrangement dealing with trade in textiles and clothing products is a derogation from the provisions of Article XIX. It allows selective action to be taken in these product areas in exchange for more precise rules on the taking of such action and a system of multilateral surveillance. In other situations, countries have resorted to the use of voluntary export restraints which are a form of selectivity and which are concluded outside the purview of GATT.

7. While technically the negotiations on safeguards continue in Geneva as part of the GATT work programme, there seems to be little concerted political will at this stage to conclude such negotiations before the start of a new round of trade negotiations in the GATT. There is general agreement however, that concluding a safeguards agreement would be a key objective in a new round. It is probably not practical to think of realizing that objective prior to the conclusion of the new round of trade negotiations.

Canada-U.S. Discussions to Date

8. Both Canada and the United States have been frequent users of Article XIX. Fairly early on in the use of this article, a difference of opinion arose between Canada and the United States as to the circumstances under which a contracting party had the right to suspend substantially equivalent concessions under Article XIX, and consequently to use this right as a means of securing "compensation" -- usually in the form of reduced tariffs -- from the country which took the safeguard action. The Americans maintained that any safeguard action constituted an impairment of American GATT rights and therefore ought to be "paid for". The Canadian view was that if the article were properly applied, payment ought not to be necessary. The result of this situation was that in most situations where Canada took a safeguard action affecting American imports the United States insisted on receiving compensation, and usually did. On the other hand, Canada did not request compensation from the United States after