

WORLD TRADE
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Committee on Safeguards

NOTIFICATION OF LAWS, REGULATIONS AND
ADMINISTRATIVE PROCEDURES RELATING
TO SAFEGUARD MEASURES

ECUADOR

The following communication, dated 1 August 1995, has been received from the Permanent Mission of Ecuador.

In accordance with Article 12:6 of the Agreement on Safeguards, Ecuador notifies that its legislation consists of the provisions of Articles 78, 79, 79A, 80 and 81 of the Cartagena Agreement and Resolution No. 70 of the Committee of Representatives of the Latin American Integration Association, the texts of which are attached.

Ecuador also notifies that it has not adopted any emergency measures on the import of specific products, neither has it adopted nor does it maintain voluntary export restrictions, orderly marketing arrangements or other like measures related to exports or imports.

CARTAGENA AGREEMENT

CHAPTER IX

SAFEGUARD MEASURES

Balance of payments

Article 78. A member State that has adopted measures to remedy the imbalance in its overall balance of payments may extend these measures, with the authorization of the Board, as a temporary measure and in a non-discriminatory manner to intra-subregional trade in products covered by the Liberalization Programme.

Member States shall ensure that restrictions imposed as a result of the balance-of-payments situation do not affect trade in the products covered by the Liberalization Programme within the subregion.

Where the situation referred to in this Article requires immediate action, the member State concerned may, as an emergency measure, apply the measures permitted, informing the Board immediately, and within the following 30 days the Board shall decide whether to authorize, modify or suspend the measures.

Where the measures mentioned in this Article are applied for more than one year, the Board shall propose to the Commission, either on its own initiative or at the request of a member State, the immediate initiation of negotiations with a view to eliminating the restrictions adopted. (*Article 48 of the Quito Protocol*)

Temporary remedial measures and prior authorization

Article 79. Subject to authorization by the Board, a member State may adopt remedial measures of a temporary nature and in a non-discriminatory manner when implementation of the Agreement's Liberalization Programme causes or threatens to cause serious injury to the economy of a member State or to an important sector of its economic activity. Where necessary, the Board may propose to the Commission collective cooperation measures to overcome the problems caused. (*Original text*)

The Board shall regularly monitor the evolution of the situation so as to ensure that the restrictive measures do not extend beyond the period strictly necessary or to consider new forms of cooperation where appropriate. (*Original text*)

A member State may apply temporary remedial measures of a non-discriminatory nature, subject to a later decision by the Board, when the injury referred to in this Article is so serious that immediate measures are required.¹ (*Article 10 of the Additional Instrument*)

The measures shall cause the least possible prejudice to the Liberalization Programme and, if applied unilaterally, shall not imply a reduction in imports of the product or products concerned in relation to the average of the preceding 12 months. (*Article 10 of the Additional Instrument*)

¹The Commission took a temporary decision on this paragraph in Decision 226 of 11 May 1987, in effect up to 25 May 1988 when the Quito Protocol entered into force.

Any member State adopting such measures shall immediately so inform the Board and within the following 30 days the Board shall decide whether to authorize, modify or suspend the measures. (*Article 10 of the Codified Additional Instrument for the Accession of Venezuela*)

Temporary remedial measures

Article 79A. A member State may apply remedial measures of a non-discriminatory and provisional nature, subject to a later decision by the Board, when products originating in the subregion are imported in quantities or under conditions that disrupt the national production of specific products in the member State in question.

A member State applying remedial measures must inform the Board accordingly within a period not exceeding 60 days and submit a report explaining the reason for their application. Within 60 days of receiving the report, the Board shall verify that disruption has occurred and the origin of the imports causing it and shall decide whether to suspend, modify or authorize the measures, which may only be applied to products from the member State in which the disruption originated. The remedial measures applied shall guarantee access for a volume of trade not less than the average of the preceding three years. (*Text added by Article 49 of the Quito Protocol*)

Currency devaluation

Article 80. Where a member State considers that the currency devaluation undertaken by another member State has disturbed normal competitive conditions and that it has suffered injury as a consequence, it may bring the case before the Board, which shall take a summary decision. Once the disruption has been confirmed by the Board, the member State that has suffered injury may adopt temporary remedial measures while the disruption persists and in accordance with the Board's recommendations. In any event, such measures shall not imply a reduction in the import levels existing before the devaluation. (*Original text*)

Without prejudice to application of these temporary measures, a member State may request the Commission to take a final decision on the matter. (*Original text*)

The member State which has undertaken the devaluation may at any time request the Board to review the situation in order to attenuate or eliminate the remedial measures. The decision of the Board may be overruled by the Commission. (*Original text*)

In the situations referred to in this Article, a State which considers that it has suffered injury may submit its case to the Board and propose protective measures that are in keeping with the scale of the disruption caused, giving the technical reasons for its proposal. The Board may request any additional information it requires. (*From this paragraph onwards, the text corresponds to Article 11 of the Codified Additional Instrument, "Article 80" being replaced by "this Article"*)

The Board shall take a summary decision within one month from the date of receiving the request. If the Board does not take a decision within this period and the State making the request considers that the delay could cause it injury, it may adopt the measures it originally proposed, informing the Board immediately and, in its subsequent decision, the Board shall decide whether to maintain, modify or suspend the measures applied.

In its decision, the Board shall take into account *inter alia* the economic indicators concerning the general competitive conditions for trade in the subregion adopted by the Commission upon the proposal of the Board, the characteristics of the foreign exchange systems in member States and the relevant studies carried out by the Monetary and Foreign Exchange Council.

The Board shall utilize its own means of assessment until the Commission has adopted a system of economic indicators.

Notwithstanding the provisions of the preceding paragraphs, if during the time elapsing between the submission of the request and the Board's decision, the member State making the request considers that there are grounds giving it good reason to fear that, as a result of devaluation, it will suffer immediate injury that will be extremely serious for its economy and necessitates the urgent adoption of protection measures, it may inform the Board of the situation, and if the latter considers the request well-founded it may authorize the application of appropriate measures within a period of seven consecutive days. The final decision of the Board on the disruption of normal competitive conditions shall in any event determine the maintenance, modification or suspension of the emergency measures authorized.

Measures adopted pursuant to this Article shall not imply a reduction in the trade flows existing before devaluation.

Paragraphs 2 and 3 of this Article shall apply in full to these measures. (*Article 11 of the Codified Additional Instrument for the Accession of Venezuela*)

Safeguards exemptions

Article 81. No safeguard measures of any kind shall be imposed on imports of products originating in the subregion covered by the Industrial Integration Programmes and Plans. (*Article 50 of the Quito Protocol*)

CR/Res. 69

LAIA/CR/Resolution 69
16 February 1987

Amendment of Articles 1 and 3 of
Resolution 64 of the Committee of
Representatives

LAIA/CR/Resolution 70
27 April 1987

Regional Safeguards Regime

THE COMMITTEE OF REPRESENTATIVES,

HAVING REGARD to Article 1 of Resolution 16 (III) of the Council of Ministers,

DECIDES THE FOLLOWING:

Article 1. Member States may apply safeguard measures as a temporary measure and in a non-discriminatory manner in order to suspend in whole or in part the fulfilment of commitments undertaken in any of the mechanisms of the 1980 Montevideo Treaty:

- (a) Provided that they are for the purpose of restricting imports in order to remedy imbalances in their overall balance of payments; and
- (b) where one or more products originating in the region are imported in quantities or under conditions that cause or threaten to cause serious injury to domestic producers of like or directly competitive goods.

Article 2. Member States shall not apply safeguard measures to imports originating in States with a lower relative level of economic development in order to remedy imbalances in their overall balance of payments.

Article 3. Safeguard measures imposed pursuant to Article 1(a) may be applied for up to one year; this period may be extended under the conditions laid down in Article 5.

Within seven working days following their adoption, the importing State shall inform the Committee of Representatives of any measures applied to the import of products originating in the region, giving the grounds for their application.

Article 4. After providing the information referred to in the preceding Article, the importing State shall commence consultations with other member States within the framework of the Committee of Representatives within 60 days in order to attenuate the effects that the measures adopted might have on intra-regional trade.

In order to facilitate the consultations referred to in the preceding paragraph, the importing State shall provide the other States with a detailed description of the measures applied to remedy the situation, as well as the facts that allow them to assess the imbalance in its overall balance of payments and the impact which import of the products subject to negotiation might have on the imbalance.

Without prejudice to the consultations referred to in the preceding paragraph, the importing State shall gradually phase down the application of the safeguard measures the conditions which justified their adoption improve.

Article 5. Where the grounds for the adoption of safeguard measures persist after the expiry of the period specified in Article 3, the importing State may extend their application for one further year in consultation with the other member States within the framework of the Committee of Representatives in order to limit as far as possible the disruption of intra-regional trade. Consultations shall begin 60 days before the end of the time-limit originally imposed and shall conclude before it expires.

Article 6. Safeguard measures imposed pursuant to the provisions of Article 1(b) may be applied for one year; this period may be extended for a further consecutive period of one year under the conditions laid down in Article 8.

Within seven working days following their adoption, the importing State shall inform the other signatory States to the agreement concerned, through the Committee of Representatives, of the measures applied to imports of products that are the subject of the preferences agreed, providing information to allow the grounds for imposing the measures to be assessed.

Article 7. In order to ensure that the measures adopted pursuant to the preceding Article do not totally interrupt the trade flows that would have occurred, the importing State shall maintain the preferences and other terms contained in the relevant agreement for the import of a specified volume or value of the product to which safeguard measures apply.

The volume or value shall be specified in the communication referred to in the preceding Article and shall be reviewed in negotiations with supplier States within 60 days from the date of the communication. The Committee of Representatives shall be informed of the outcome of the negotiations.

Where the aforementioned negotiations do not result in agreement between the importing State and supplier States to increase the volume or value specified, the latter shall remain in effect until the expiry of the time-limit allowed for the application of the safeguard measures.

Article 8. Where the importing State considers that it is necessary to continue to apply the safeguard measures for a further period pursuant to the provisions of Article 6 above, it shall commence negotiations with the other signatory States in order to agree on the terms and conditions for their continued application. Negotiations shall commence 60 days before the end of the time-limit originally imposed and shall conclude before it expires. The Committee of Representatives shall be informed of the outcome of the negotiations.

Where agreement is reached among the parties, the safeguard measures shall continue to be applied in accordance with this agreement. Where no agreement is reached, the importing State may continue to apply the measures for a further period, undertaking to maintain the volume or value established in accordance with the preceding Article until the end of the extended period or, if there is no extension, shall commence preparations to withdraw the product subject to safeguards in accordance with the relevant provisions of the agreement in which the product was negotiated. In the case of Regional Scope Agreement No. 4, which establishes regional tariff preferences, the importing State shall include the product in its respective list of exemptions, without this implying any change to the parameters for drawing up the lists laid down in the said Agreement.

Article 9. Where the grounds for application of the safeguard measures persist after the expiry of the period laid down in Article 8, the importing State shall initiate procedures for the withdrawal of the product concerned in accordance with the relevant provisions of the agreement in which the product was negotiated. In the case of Regional Scope Agreement No. 4, which establishes regional tariff

preferences, the importing State shall include the product in its respective list of exemptions, without this implying any change to the parameters for drawing up the lists laid down in the said Agreement.

Article 10. Member States may apply safeguard measures to the import of products originating from countries with a lower relative level of economic development, in accordance with the provisions of Article 1(b), after informing the countries concerned, only if serious injury is caused by such imports. In any event, the importing State shall reach agreement with the exporting State on a quantity exempt from safeguards.

The application of safeguard measures to imports originating from countries with a lower relative level of economic development in accordance with the preceding paragraph shall not imply any reduction in the usual consumption of the State importing the product concerned.

Article 11. Application of the safeguard measures provided for in this Chapter shall not affect goods shipped on the date of its adoption.

Article 12. In the context of action to absorb the clearly established deficit of a member State, the Committee of Representatives may authorize the postponement or temporary reduction of some or several of the trade commitments adopted under regional scope agreements, except for those corresponding to the opening up of markets for countries with a lower relative level of economic development.

In any event, a timetable for the gradual lifting of these measures shall be established.

Article 13. This regime shall apply in general to regional scope agreements concluded as from the date of adoption of this Resolution and shall be additional to the partial scope agreements not containing specific rules on safeguard measures, unless otherwise decided by the signatories.