
Committee on Safeguards

**MINUTES OF THE REGULAR MEETING
HELD ON 8 MAY 2000**

Chairman: Mr. H. McCormick (Australia)

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- A. NATIONAL LEGISLATION - REVIEW OF NOTIFICATIONS OF NEW OR AMENDED
LEGISLATION OR REGULATIONS NOT PREVIOUSLY REVIEWED
 - 1. The Chairman noted that questions regarding newly notified legislations were to have been submitted to the Member concerned and to the Secretariat no later than 17 April 2000. On that date, Canada posed a question concerning the legislative notification of Venezuela.
 - 2. The Committee proceeded to the substantive review of the legislative notifications on the agenda. Only the legislative notification of Venezuela was actively discussed by the Committee.
 - 3. The question from Canada concerning the legislative notification of Venezuela can be found in document G/SG/Q1/VEN/1. Venezuela's reply to this question can be found in document G/SG/Q1/VEN/2.
 - 4. The Chairman recalled that the deadline for any written questions concerning the legislations reviewed by the Committee was 29 May 2000. The deadline for providing written answers to all questions asked in writing was 19 June 2000.
 - 5. The Chairman also reported on the status of legislative notifications received from Members, noting that the following 35 Members had still not made the required legislative notification:

Angola, Antigua & Barbuda, Bangladesh, Barbados, Belize, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Djibouti, Gabon, the Gambia, Grenada, Guinea Bissau, Guyana, Kuwait, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Papua New Guinea, Rwanda, Saint Kitts & Nevis, Saint Vincent & Grenadines, Sierra Leone, Solomon Islands, Swaziland, Tanzania and Togo.
 - 6. The Chairman urged these Members to make the required notification. The Chairman noted that, in cases where no legislation exists, only a very simple "nil" notification is required.
 - 7. The Committee took note of all statements made concerning the legislative notifications on the agenda.

B. NOTIFICATIONS OF ACTIONS RELATED TO SAFEGUARD MEASURES

8. The Chairman noted that a large number of notifications of actions related to safeguard measures had been received since the last meeting. In order to ensure that all of the agenda items could be reviewed in the limited time set aside for the meeting, the Chairman encouraged Members intending to make remarks concerning different notifications in respect of the same product/investigation to do so in one intervention. Thus, if for example notifications in respect of the initiation of an investigation, the imposition of a provisional measure, findings of serious injury and the imposition of a final measure for the same product/investigation were on the agenda, all remarks concerning those notifications should be made when the first notification came up for discussion.

1. Notifications of initiation of an investigation and the reasons for it

9. The Chairman noted that since the Committee's last meeting, notifications of initiation of investigations have been received from Chile on tyres (G/SG/N/6/CHL/1), from Chile on wheat, wheat flour, sugar and edible vegetable oil (G/SG/N/6/CHL/2), from Chile on cotton socks (G/SG/N/6/CHL/3), from Ecuador on matches (G/SG/N/6/ECU/2), from Egypt on fluorescent lamps (G/SG/N/6/EGY/2), from India on white / yellow phosphorus (G/SG/N/6/IND/9), from Korea on garlic (G/SG/N/6/KOR/4), from El Salvador on pork (G/SG/N/6/SLV/1 + Suppl. 1), from the United States on line pipe (G/SG/N/6/USA/7/Add.1), from the United States on crabmeat (G/SG/N/6/USA/8), from Venezuela on cold-rolled steel (G/SG/N/6/VEN/1), from Venezuela on hot-rolled steel (G/SG/N/6/VEN/2), and from Venezuela on tyres (G/SG/N/6/VEN/3).

10. The Chairman noted that Chile's notification of initiation of an investigation on tyres had been followed by a notification of the termination of that investigation without the imposition of a measure (G/SG/N/9/CHL/1). There were no comments or statements regarding these notifications.

11. The Chairman noted that Chile's notification of initiation of an investigation on wheat, wheat flour, sugar, and edible vegetable oils had been followed by notifications concerning a provisional safeguard measure (G/SG/N/7/CHL/2 + Suppl.1), a finding of serious injury (G/SG/N/8/CHL/1 + Suppl.1), and a decision to apply a safeguard measure (G/SG/N/10/CHL/1 + Suppl.1).

12. Chile provided provisional responses to some of the questions raised by Guatemala concerning Chile's notifications on wheat, wheat flour, sugar, and edible vegetable oils (see document G/SG/Q/2/CHL/1). Regarding questions 1 and 2, Chile stated that it was too early to tell whether the relevant measure would be extended. Regarding question 3, Chile stated that the necessary determination would be made when relevant, in other words upon expiry of the measure. Regarding question 4, Chile stated that the measure takes the form of a surcharge, as notified to the Committee. In respect of question 6, Chile stated that Chilean law does provide for safeguard measures to be lifted or modified prior to their expiry, in the event of changed circumstances. Regarding question 11, Chile stated that it was not possible at this stage to determine how long it would take before the domestic industry recovered the conditions which existed prior to the threat of injury. Regarding question 13, Chile noted that this question presupposed the expiry of the measure. Since the measure had not yet expired, any future action that may be taken by Chile upon expiry of the measure falls outside the ambit of review of the Committee. With regard to questions 14 and 15, Chile stated that any Chilean safeguard action against other products would be fully consistent with Chile's domestic legislation and the Safeguards Agreement. With regard to question 18, Chile stated that the Safeguards Agreement does not preclude the use of a variable safeguard measure. In response to question 19, Chile stated that Law No. 19.612 of 31 May 1999 amends Law No. 18.525. In response to question 22, Chile stated that its domestic law does not provide for the use of quantitative restrictions, and that the Safeguards Agreement does not require the use of quantitative restrictions. Regarding question 23, Chile stated that *ex officio* investigations are not precluded by the Safeguards Agreement. Nor is there

any requirement that safeguard investigations be supported by a major proportion of the relevant domestic industry.

13. The United States expressed concern regarding the brevity of Chile's Article 12.1 (b) and (c) notifications, noting in particular that Chile's Article 12.1(b) notification contained very little analysis of the threat of serious injury. The United States requested Chile to make the relevant underlying determinations available to the Committee. The United States also asked Chile to specify whether Chile excluded any exporting countries from the scope of its safeguard measure and, if so, to identify them and explain the basis for such exclusion.

14. Colombia expressed concern regarding the lack of information contained in Chile's Article 12.1 (b) notification on threat of serious injury, especially with regard to the serious injury factors set forth in Article 4 of the Safeguards Agreement. Colombia also noted that it is unclear what "critical circumstances" led Chile to apply a provisional safeguard measure, and stated that the form of the provisional measure - a variable tariff - is not very predictable. Colombia stated that Colombian exports of sugar beet to Chile decreased by 27 per cent in 1998, and then increased in 1999 to a level similar to that of 1997. Colombia stated that such data was not demonstrative of a substantial increase in imports. Colombia also asked Chile to report to the Committee on the results of the consultations held between Chile and Argentina.

15. The European Communities also expressed concern regarding the level of information contained in Chile's notifications, and asked Chile to augment the information provided in order to allow the European Communities an opportunity to determine whether the measures taken were consistent with the Safeguards Agreement. The European Communities noted, for example, that imports of edible oils decreased in 1999, and that no separate data was provided for imports of wheat flour. It would appear from the scant information available that Chile did not consider the products covered by the investigation to be directly competing, and therefore information would be needed on all four products separately in order to assess the methodology applied by Chile.

16. The European Communities also expressed a more general concern regarding the proliferation of safeguard cases and safeguard measures being taken by WTO Members. The European Communities acknowledged the right of every Member to apply safeguard legislation, but recalled Members' obligation to ensure that domestic safeguard measures are taken in conformity with the Safeguards Agreement. The European Communities noted that it has already had to have resort to dispute settlement in three cases involving safeguard measures, and that the Appellate Body has upheld its complaints in two of those cases, and that the third case is still pending. The European Communities asserted that it will continue to initiate dispute settlement proceedings in cases where a domestic safeguard measure is taken without due respect for the Safeguards Agreement, in order to create a body of jurisprudence that could provide the clearest possible guidance to Members seeking to apply safeguard measures.

17. Bolivia reserved its right to revert to this matter once Chile provided additional information to the Committee.

18. With regard to Chile's notification concerning the initiation of an investigation on cotton socks, the European Communities asked Chile to confirm whether or not whether synthetic fibre socks are included in the investigation, and to provide detailed data concerning import statistics, broken down geographically.

19. Chile stated that the only information available to it at this time was that set forth in the relevant notification.

20. Colombia asked Chile to provide information regarding the volume of imports by origin.

21. Regarding Ecuador's notification concerning the initiation of an investigation on matches, the United States requested an update on the status of the investigation, and asked when the investigation (initiated in October 1999) would be completed. Noting that the resolution attached to the notification indicated that the investigation would take place over 12 months from the date of issue of the resolution, with the possibility of a six-month extension in exceptional circumstances, the United States asked Ecuador to confirm whether the investigating authority considered data for imports or injury for any period after the date of initiation in making its determination.

22. The Chairman noted that Egypt's notification of initiation of an investigation on fluorescent lamps was followed by notifications concerning serious injury (G/SG/N/8/EGY/2 + Suppl.1) and the imposition of a safeguard measure (G/SG/N/10/EGY/2 + Suppl.1). He also noted that Hungary had posed a number of questions following-up on answers provided by Egypt (see document G/SG/Q/2/EGY/7) to earlier questions by Hungary (see document G/SG/Q2/EGY/6). Egypt's answers to Hungary's follow-up questions are contained in document G/SG/Q2/EGY/11.

23. The United States also raised a number of questions concerning Egypt's notifications (see document G/SG/Q/2/EGY/8). Egypt's answers to these questions are contained in document G/SG/Q/2/EGY/10.

24. The European Communities stated that the EC had requested interested party status in this proceeding, given that the EC exports fluorescent lamps to Egypt. Interested party status was refused by Egypt because, according to Egypt, EC imports into Egypt comprise less than 10 per cent of total imports. The European Communities asked Egypt to indicate which provision of the Safeguards Agreement was relied on by Egypt to refuse interested party status.

25. There were no comments regarding the notifications of initiation submitted by India, Korea or El Salvador.

26. The Chairman noted that the United States' notification of initiation of an investigation on line pipe was followed by subsequent notifications regarding serious injury (G/SG/N/8/USA/7 + Suppl.1), the imposition of a safeguard measure (G/SG/N/10/USA/5/Corr.1), and the non-application of a measure to developing countries (G/SG/N/11/USA/4).

27. Korea identified a number of issues regarding the consistency of the US line pipe measure with the Safeguards Agreement. Without undertaking a detailed discourse of legal arguments, Korea wished to place on the record its serious concerns regarding the following elements:

- during the most crucial period of injury, that is the year 1999, imports of line pipe into the United States were rapidly declining, rather than "being imported in such increased quantities" as required by Article 2.1 of the Safeguards Agreement;
- there is a question as to whether the overall impairment was properly evaluated to demonstrate the existence of serious injury to the domestic industry;
- given the reduced drilling and oil / gas production during the period under investigation, the causal link between imports and the serious injury seems not to have been sufficiently demonstrated;
- there is no indication that the US authorities considered the requirement of "unforeseen developments" as provided for in Article XIX of the GATT 1994;
- the MFN principle was not respected, since certain countries were excluded from application of the measure;

- given the prohibitively high tariff that would effectively ban imported line pipe from the US market, the requirement of "the necessary extent" of the measures stipulated in Article 5.1 of the Safeguards Agreement seems not to have been met; and
- there is a question as to the legal validity of the first 9,000 tons of imports not subject to the measure, which ignores the historical import records of foreign suppliers.

28. Korea stated that during previous bilateral discussions, Korea had urged the United States to take necessary steps to rectify the defects of the measure to ensure its consistency with the obligations of the United States under the WTO Agreements. Korea reserves all rights under the WTO Agreements in respect of this matter. The Korean Government is seriously considering various options available to it to defend its commercial interests.

29. Japan stated that a safeguard measure is an exception to the principle of free trade that must be taken in a non-discriminatory manner under the MFN principle. From this perspective, Japan registered concern regarding the WTO-consistency of the US measure. Japan reserves the right to take all action necessary under the WTO Agreement. Japan has raised its concerns with the US bilaterally, under Article 12.3 consultations, and has also voiced its concern in this Committee.

30. Malaysia joined Korea and Japan in expressing concern regarding the US measure, both from a systemic and trade perspective. From a systemic perspective, there is breach of the MFN principle when imports from certain countries were included for the purpose of establishing serious injury, but subsequently excluded from the scope of the measure. Furthermore, regarding developing country exemption, the US notification does not specify the developing country Members to which the measure does not apply. Malaysia also shares the concern raised by Korea concerning the 9,000 ton quota, which does not take into account exporting countries' historical trade figures. In addition, there is a breach of Article 4.2 (b) of the Safeguards Agreement, since injury caused by factors other than increased imports was attributed to increased imports. One ITC member stated that there could be other factors that had caused injury, but such injury was nevertheless attributed to increased imports. Malaysia reserves all rights under the WTO Agreements.

31. The European Communities expressed similar concerns regarding the methodology applied by the United States in this case, in particular regarding the inclusion in the scope of the measure of high frequency induction pipes for underwater application. Such inclusion constitutes a blatant violation of the Safeguards Agreement, since this product is not even manufactured in the United States.

32. The United States informed the Committee that on 11 February 2000, after the ITC conducted an exhaustive and transparent investigation, the President announced import relief in the form of a duty. The additional duty was imposed on imports of line pipe for a period of three years and one day. The additional duty is 19 per cent *ad valorem* for the first year, 15 per cent *ad valorem* for the second year, and 11 per cent *ad valorem* for the third year. Each country certified to ship line pipe makes good the first 9,000 tons from the additional duty. This 9,000 ton exemption was carefully calculated to leave imports at or above pre-surge levels. This remedy affords the minimum level of relief necessary to remedy the serious injury that the US line pipe industry incurred as a result of increased line pipe imports, and to facilitate the industry's adjustment.

33. With respect to MFN treatment, during the investigation the USITC carefully examined the effect of Canadian and Mexican line pipe imports, and concluded that they did not contribute importantly to the industry's serious injury. Accordingly, as required under the NAFTA and consistent with the Safeguards Agreement, the President excluded Canadian and Mexican line pipe imports from the safeguard measure. At the same time, however, the President instructed the Customs Service to monitor line pipe imports from Canada and Mexico, to guard against the

possibility of an import surge. US law specifically empowers the President to take action against Canadian and Mexican imports in the event of such a surge.

34. With respect to the Article 9 developing country issue raised by Malaysia, the United States noted that the 9,000 ton exemption ensures that no developing country with less than a 3 per cent import share will be affected by the remedy.

35. With respect to the product coverage issue raised by the European Communities, while the President made every reasonable effort to accommodate the interests and needs of the respondents in making his determination, it was not possible to exclude every product requested from this remedy. Regarding high frequency induction pipe, the ITC specifically found that this pipe should be included in the remedy because a US company is in the process of making such a line pipe, and because US companies already produce line pipe products with the same qualities.

36. Brazil raised systemic concerns regarding the exclusion of Canada and Mexico from the US measure, and the implications of the 9,000 ton exemption for developing countries. With regard to the exclusion of Canada and Mexico from the measure, Brazil noted the US finding that imports from those countries did not contribute to the serious injury suffered by the domestic industry. Brazil stated that such consideration is irrelevant under the Safeguards Agreement. He asked the US to elaborate on how the exclusion of those two countries would be consistent with the Safeguards Agreement and the GATT 1994. Concerning the developing country issue, Brazil took note of the explanation provided by the United States. Nevertheless, Brazil noted that the United States had failed to make any reference to the Article 9 developing country exemption in the context of its notifications on wire rod. Brazil therefore asked the United States to explain how Article 9 was taken into account in the context of the wire rod measure.

37. Canada asserted that the exclusion of Canada and Mexico from the US line pipe measure does not conflict with either Article XIX of GATT 1994 or the Safeguards Agreement.

38. The European Communities agreed with Canada that Members are entitled to exclude imports from customs union or free trade partners from the application of safeguard measures, but noted that it is clear from the Appellate Body report in *Argentina - Footwear* that such exclusion is only permitted if the imports concerned were not taken into account in the examination of serious injury. With regard to the US measure on line pipe, it would appear that a special investigation regarding imports from Canada and Mexico found, by coincidence or other, that these imports did not cause serious injury to the US industry. Where in the Safeguards Agreement is there a provision to deal individually with imports from customs union or free-trade area partners, and to exclude them from the scope of a measure having previously included them in the investigation of injury?

39. Malaysia stated that the Appellate Body in *Turkey - Textiles* asserted that there could be a limited defence for the exemption of customs union partners from a safeguard measure, but only if the safeguard measure is invoked by the customs union upon formation of that customs union, and if the measure is necessary for the existence of the customs union. In this context, Malaysia cannot agree with the exclusion of imports from Canada and Mexico from the US measure.

40. Hong Kong, China noted the systemic implications of the decision by the United States to exempt imports from Canada and Mexico from its safeguard measure, particularly in light of the MFN requirement set forth in Article 2.2 of the Safeguards Agreement. As to the applicability of the Appellate Body report referred to by the European Communities, Hong Kong, China noted that this report addressed the treatment of customs union partners. Hong Kong, China is not certain that the Appellate Body report is applicable in cases concerning free-trade area partners.

41. The United States noted that footnote 1 of the Safeguards Agreement envisions exemption for both customs union and free-trade area partners.

42. There were no comments regarding the decision by the United States to initiate an investigation on crabmeat.

43. Regarding Venezuela's notifications concerning the initiation of investigations on cold-rolled and hot-rolled steel, the European Communities asked Venezuela to supply official trade statistics for the products concerned, broken down by country of origin. The European Communities also requested information not as yet supplied concerning the various steps and deadlines involved in the procedural aspects of these cases.

44. The United States asked Venezuela for an up-date on the status of these investigations, and the investigation concerning tyres. The United States also noted that, according to Venezuela's notifications, petitioners have provided information on the existence of critical circumstances. However, the United States has no record of having received any Article 12.4 notifications concerning the imposition of provisional safeguard measures. The United States asked Venezuela to confirm that no provisional safeguard measures have been applied on the relevant products.

45. Brazil asserted that it is following closely developments concerning the imposition of safeguard measures by Venezuela on imports of hot and cold-rolled steel, and could raise issues either in writing, or orally at the next meeting of the Committee.

46. Japan registered a number of concerns regarding all three Venezuelan notifications. Safeguard measures are an exception to the principle of free trade, which should only be used within the strict confines of the Safeguards Agreement. Japan will be monitoring developments closely regarding Venezuela's three investigations, given Japan's commercial interests in the products under investigation.

47. Venezuela asserted that its safeguard investigations were initiated in accordance with the Safeguards Agreement and the relevant domestic legislation. The two steel investigations were initiated in January 2000. Although no provisional measures will be taken, the investigations will continue. Any final measures resulting from those investigations would be adopted around June 2000. No preliminary determination has been made in the context of the investigation on tyres. Any decisions on final safeguard measures will be consistent with the Safeguards Agreement.

2. Notification regarding the initiation of an extension review of an existing measure

48. The Chairman noted that, since the last meeting of the Committee, Brazil has notified the initiation of a review to determine whether a pre-existing measure on toys should be extended (G/SG/N/14/BRA/1). Brazil also made subsequent notifications regarding serious injury (G/SG/N/8/BRA/2 + Suppl.1) and the imposition of a safeguard measure (G/SG/N/10/BRA/2 + Suppl.1).

49. The United States asserted that it made a formal request to Brazil on 24 March 2000 to extend the 90-day consultation period provided for in Article 8.2 of the Safeguards Agreement and Article XIX.3(a) of the GATT 1994. Brazil had agreed to a similar extension with the European Communities on this action, but the United States is still waiting for a response to its request from the Brazilian authorities. The United States also noted that it has accommodated such requests from Members with respect to US safeguard actions. The United States believes that the information contained in the notifications does not support the extension of the safeguard measure, which has already been in place for more than three years. On the basis of the facts of this case, the domestic industry has had sufficient time to adjust to import competition. The extension for four

additional years is excessive in light of the current situation in the domestic industry. The Brazilian toy industry is adjusting, and has adjusted, to import competition. Inventory levels have developed favourably, as inventories have decreased 50 per cent during the period of the safeguard measure. The domestic market has grown, and worker productivity in the domestic production of toys has grown over the last four years. Imports declined in terms of quantity and value between 1995 and 1998, and because of the devaluation of the Real, data will show that total 1999 imports have fallen still more. There is no evidence in Brazil's notifications that the Real devaluation, or developments during 1999, have been taken into account at all in Brazil's decision to extend its safeguard measure on toys. A devaluation of this magnitude is certainly a relevant factor in the sense of Article 4.2 of the Safeguards Agreement, which must be taken into account. The extended safeguard measure will comprise a total duty of 37 per cent *ad valorem* in calendar year 2000, declining to 33 per cent in 2001, 32 per cent in 2002, and 31 per cent in 2003. This rate of liberalization is considerably less than the liberalization rate during the initial period of the measure. In fact, the 1999 devaluation of the Real provides far more import relief than the safeguard measure. Imports will remain low, even without any safeguard extension, and a safeguard action of this magnitude is certainly not needed. The United States put a series of questions to Brazil (see document G/SG/Q2/BRA/7).

50. Brazil provided preliminary comments on the issues raised by the United States. First, Brazil noted that the US request to extend the Article 8.2 90-day deadline was submitted 24 days after the expiry of that deadline. Nevertheless, in a gesture of goodwill, Brazil would still examine the US request. Second, the adjustment of the domestic industry is examined in the authority's report and determination, and has therefore been taken into account. Although adjustment is taking place, it is not yet enough to warrant removal of the measure. Third, the four-year extension of the initial measure is not excessive. The reasons justifying a four-year extension are set forth in the authority's report and determination. Fourth, the devaluation of the Real, and other developments from January - June 1999, were also addressed in the authority's report. The devaluation of the Real in January 1999 is fully reflected in data pertaining to the first half of 1999. Furthermore, despite the devaluation of the Real, there was an increase in the market share held by imports during the first half of 1999. Fifth, at this stage Brazil does not understand the US comments regarding the choice of periods examined by the Brazilian authorities, since the report covers the whole period from 1996 through 1999. Finally, contrary to the position expressed by the United States, a decrease in imports during the period of application of the initial safeguard measure does not prevent an extension of that measure. In principle, imports will never increase during the period of application of a safeguard measure. Thus, if the extension of a measure is dependent on a finding of increased imports during the initial period of application of the measure, there could never be an extension of any measure, especially if the safeguard measure takes the form of a quantitative restriction.

3. Notifications concerning the application of provisional safeguard measures

51. The Chairman recalled that, since the last meeting of the Committee, Chile has notified a provisional safeguard measure on wheat, wheat flour, sugar and edible vegetable oils, and Korea has notified a provisional measure on garlic. Since these notifications had already been considered, the Committee moved on to the next agenda item.

4. Notifications of findings of serious injury or threat thereof caused by increased imports

52. The Chairman noted that, since the last meeting, nine notifications concerning findings of serious injury or threat thereof caused by increased imports have been received: from Brazil on toys, from Chile on wheat, wheat flour, sugar and edible vegetable oils, from the Czech Republic on sugar, from Egypt on fluorescent lamps, from India on acetone, from Korea on garlic, from Latvia on swine meat, from the United States on steel wire rod, and from the United States on line pipe. The Chairman noted that the serious injury notifications made by Brazil, Chile, Egypt and Korea had already been considered, as had the United States' notification in respect of line pipe. The Committee

therefore focused on the notifications made by the Czech Republic (G/SG/N/8/CZE/1 + Corr.1 + Suppl.1), India (G/SG/N/8/IND/8), Latvia (G/SG/N/8/LVA/1), and by the United States on steel wire rod (G/SG/N/8/USA/4/Suppl.3).

53. The Chairman noted that the serious injury notification made by the Czech Republic in respect of sugar was followed by notifications regarding the application of a safeguard measure (G/SG/N/10/CZE/1 + Corr.1 + Suppl.1), and the non-application of that measure to developing countries (G/SG/N/11/CZE/1 + Corr.1 + Suppl.1).

54. The Czech Republic informed the Committee that its notification regarding the non-application of its measure to developing countries contained an error, and that Saint Kitts and Nevis should also be included in the list of developing countries excluded from the scope of the measure.

55. The Chairman noted that India's notification of serious injury in respect of acetone was followed by a notification concerning the imposition of a safeguard measure (G/SG/N/10/IND/6).

56. India informed the Committee that the investigation on acetone was initiated on 16 June 1999, and that the Committee was informed of the initiation on 21 June 1999. The investigation was initiated on the basis of a request from the domestic industry. No provisional measure has been imposed. The final determination was made on 8 October 1999, and a safeguard measure was imposed for a period of two-and-a-half years. The measure takes the form of a duty, fixed at 28 per cent for the first year, 21 per cent for the second year, and 9 per cent for the remaining six months. All developing countries have been excluded from the scope of the measure, except South Africa.

57. The United States asked India to confirm the US understanding that the safeguard measure is being applied in addition to the existing duty of 38.5 per cent, as set out on page 46 of G/SG/N/8/IND/8.

58. India confirmed the US understanding.

59. The European Communities expressed general concerns regarding India's decision to impose a safeguard measure against imports of acetone. The European Communities agreed with India's decision not to base the measure on a finding of actual serious injury, since the information available does not support a finding of serious injury. Noting that the measure was imposed on the basis of a threat of serious injury, the European Communities asserted that the facts available do not support a finding of threat of serious injury. Referring to Article 4 of the Safeguards Agreement, the European Communities noted that a threat of serious injury may only be established if serious injury is "clearly imminent", and that a determination of threat of injury must not be based on "allegation, conjecture or remote possibility". Article 4 therefore imposes a heavy onus of proof on the investigating authority. The European Communities does not consider that the Indian authorities have met this onus. The European Communities asked India to provide more information on the criteria used to justify its finding of threat of injury.

60. India stated that the parameters for its finding of threat of serious injury were capacity utilization, sales, sales price, net sales realisation, stocks, employment, productivity and profitability. In this regard, India recalled the relevant findings set forth in document G/SG/N/8/IND/8. India asserted that these findings justified the conclusion that serious injury was clearly imminent.

61. The Chairman noted that Latvia's notification of serious injury in respect of swine meat was followed by a notification concerning the imposition of a safeguard measure (G/SG/N/10/LVA/1 + Suppl.1).

62. Latvia informed the Committee that on 11 April 2000 it had decided to terminate its safeguard measure on swine meat as of 1 June 2000, subject to approval by the Parliament of Latvia. The termination of the measure was notified to the Committee in document G/SG/N/10/LVA/2.

63. The Chairman noted that the US notification of serious injury in respect of steel wire rod was followed by a notification concerning the imposition of a safeguard measure (G/SG/N/10/USA/4 + Corr.1).

64. Turkey asserted that there is no justification for a finding of serious injury, or threat thereof, in respect of steel wire rod. Turkey endorsed some of the points raised earlier by Brazil, Korea, Japan and Malaysia. As an exporter of this product, Turkey will closely follow this procedure, and reserves the right to revert to this matter in the future.

65. The European Communities stated that there is even less justification for the US safeguard measure on steel wire rod than for the US measure on line pipe discussed earlier. In examining the questions of serious injury, causality, unforeseen developments, the scope and nature of the measure, and the exclusion of Canada and Mexico, the European Communities feels that there were strong reasons for not taking measures against imports of steel wire rod. These reasons were clearly indicated in the fact that the USITC was split, and it took the President some six months to decide on which side to fall. The European Communities is examining closely the possibility of initiating WTO dispute settlement proceedings.

66. The United States noted that the import relief for steel wire rod entered into effect on 1 March 2000, taking the form of a tariff rate quota applicable for three years and one day. For the first year, the tariff rate quota is 1.433 million tonnes, which will increase by 2 per cent in the second and third years. The over-quota tariff rate in the first year is 10 per cent, decreasing to 7.5 per cent in the second year, and 5 per cent in the third year. The quota amount is equivalent to the volume of 1998 imports, plus 2 per cent for growth. The tariff rate quota has a spacing mechanism which allows for one third of the quota to be filled in each of the first three quarters, with any remaining in-quota amount being imported in the fourth quarter without being subject to the surcharge. This should prevent a rush to the border in filling the tariff rate quota. A subset of steel wire rod which is not produced in commercially viable quantities in the United States has been excluded from the remedy.

67. The United States noted that imports from developing countries exceeded nine per cent of total imports. Consequently, in accordance with Article 9, imports from developing countries were properly included in the scope of the remedy.

5. Notifications of termination of an investigation with no safeguard measure imposed

68. The Chairman noted that, since the last meeting of the Committee, there have been three notifications concerning the termination of an investigation without the imposition of a safeguard measure: a notification from Chile concerning tyres, a notification from India concerning white/yellow phosphorus, and a notification from the Slovak Republic concerning swine meat. The Chairman noted that the notifications by Chile and India had already been considered by the Committee. There were no comments regarding the Slovak Republic's notification on tyres (G/SG/N/9/SVK/1).

6. Notifications of a decision to apply a safeguard measure

69. The Chairman noted that, since the last meeting, the following notifications concerning a decision to apply a safeguard measure have been received: from Brazil on toys, from Chile on wheat, wheat flour, sugar and edible vegetable oils, from the Czech Republic on sugar, from Egypt on fluorescent lamps, from India on acetone, from Latvia on swine meat, from the United States on steel

wire rod, and from the United States on line pipe. Since these notifications had already been addressed by the Committee, the Committee moved on to the next agenda item.

7. Notifications regarding the non-application of a safeguard measure to developing countries

70. The Chairman noted that, since the last meeting, there have been two notifications on the non-application of a safeguard measure to developing countries: one from the Czech Republic on sugar, and one from the United States on line pipe. Since both of these notifications had already been addressed by the Committee, the Committee moved on to the next agenda item.

8. Notifications regarding the proposed suspension of concessions and other obligations

71. The Chairman noted that the Committee has received three joint notifications concerning the proposed suspension of concessions: from Australia and the United States in respect of the US measure on lamb meat (G/SG/N/12/AUS/1 & G/SG/N/12/USA/1), from Brazil and the European Communities concerning the Brazilian measure on toys (G/SG/N/12/BRA/1 + Corr.1 & G/SG/N/12/EEC/2 + Corr.1), and from Argentina and the European Communities in respect of the Argentinian measure on footwear (G/SG/N/12/ARG/1 & G/SG/N/12/EEC/3). The Chairman informed the Committee that two joint notifications were also received from the European Communities and the United States in respect of the US measures on line pipe and steel wire rod. These were only circulated on 2 May 2000, and were therefore too late for inclusion in the agenda for the Committee's meeting. Furthermore, a joint notification from Argentina and Indonesia in respect of Argentina's measure on footwear was received on 3 May 2000. This was also too late for inclusion in the agenda.

72. Regarding the joint notification concerning the Brazilian measure on toys, the European Communities stated that it asked Brazil to extend the 90-day deadline provided for in Article 8.2 of the Safeguards Agreement because 90 days is not always sufficient time for Members to examine carefully the compensation option. The European Communities encouraged Members to provide a full opportunity including, if necessary, an extension of the 90-day deadline to examine the compensation option, since it provides the least disruptive remedy to safeguard measures. The alternative of the suspension of equivalent concessions can have more significant negative trade effects.

73. Concerning Argentina's measure on footwear, Indonesia asserted that Argentina neither notified the Committee immediately upon taking a decision to extend a safeguard measure, as required by Article 12.1(c) of the Safeguards Agreement, nor provided adequate opportunity for prior consultations with Members - like Indonesia - having a substantial trade interest as exporters pursuant to Article 12.3. Without prejudice to Indonesia's position on the consistency of Argentina's measure with the Safeguards Agreement and the GATT 1994, Indonesia reserves all of its rights under the WTO Agreement with respect to Argentina's measure. Furthermore, Indonesia understands that, in the absence of any notification by Argentina, and to the extent that the consultation provisions of Article 8.2 of the Safeguards Agreement apply to these measures, the consultation period began to run on 24 February 2000, the date on which the extension of the safeguard measure entered into effect. In order to maintain Indonesia's and Argentina's reciprocal rights and obligations concerning Argentina's measure, Indonesia and Argentina have agreed to extend the 90-day period set forth in Article 8.2 of the Safeguards Agreement and Article XIX:3(a) of the GATT 1994 for as long as Argentina's measure remains in force.

74. Argentina informed the Committee that it did hold consultations with Indonesia and other exporting Members with a substantial interest. Argentina also expressed surprise that its joint notification with Indonesia was dated 4 May 2000, referring to a joint communication of 1 May 2000,

since the agreement with Indonesia (to extend the Article 8.2 deadline) was signed only on 5 May 2000.

75. The European Communities informed the Committee that it was not offered Article 12.3 consultations by Argentina.

9. Notifications concerning the results of a mid-term review

76. The Chairman noted that the United States has notified the results of the mid-term review of its safeguard measure on wheat gluten (G/SG/N/13/USA/1).

77. The European Communities reminded that in November 1999 it had put a number of questions to the United States (see document G/SG/Q2/USA/7) and that it had not yet received a reply thereto. Furthermore, the European Communities expressed concern at the possibility that the United States extends the scope of the existing measure to cover pet-food premix. The European Communities asserted that pet-food premix is a different product and that the United States have not made any finding thereon.

78. The Committee took note of all statements made concerning the notifications of actions related to safeguard measures.

C. OTHER BUSINESS

79. The United States raised an issue concerning Annex 3 of the Committee's Annual Report, which contains a summary of notifications and information provided to the Committee concerning Members' pre-WTO safeguard measures. The United States noted that all of these measures have, or should have, expired. The United States asked the Chairman to check whether this was indeed the case, in order that Annex 3 could be dropped from future Annual Reports.

80. The United States also raised an issue concerning Colombia's safeguard investigation on taxis. Colombia notified the Committee that an investigation had been initiated on 28 June 1999. The United States asked Colombia to provide an up-date on the status of that investigation.

81. By way of a preliminary response, Colombia informed the Committee that the investigation concerning taxis was concluded without the imposition of any measure. However, this would need to be confirmed with the relevant authorities.

82. The Chairman stated that any delegation wishing to receive a written response to any question raised under this agenda item should submit its question in writing, to the Secretariat and to the notifying Member, no later than 29 May 2000. Written answers to all questions submitted in writing by that date should be submitted to the Secretariat no later than 19 June 2000.

83. The Committee took note of the statements made.

D. DATE OF NEXT REGULAR MEETING

84. The Committee decided to hold its next regular meeting on Thursday, 9 November 2000.

E. ELECTION OF OFFICERS

85. The Committee elected Mr. Joshua Setipa of the Kingdom of Lesotho as Chairman. The Committee postponed the election of a Vice Chairperson until the beginning of the next regular

meeting. The Committee asked the current Vice Chairperson, Ms. Amy Yuen of Hong Kong, China, to continue serving until that time.

86. The meeting was adjourned.
