

## CHAPTER IX: SAFEGUARD CLAUSES

### *Article 107*

A Member Country, that has adopted measures to correct a disequilibrium in its overall balance of payments, may extend such measures, when previously authorized by the General Secretariat in a transitory and nondiscriminatory manner, to intrasubregional trade of products incorporated to the Tariff Reduction Program.

The Member Countries shall seek to ensure that the application of restrictions due to a balance of payments situation does not affect, within the Subregion, trade in products incorporated to the Tariff Reduction Program.

When the situation provided for in this Article requires an immediate response, the interested Member Country may apply, on an emergency basis, the foreseen measures, having in that regard to immediately notify them to the General Secretariat, which shall express its views within the following thirty days, either authorizing, modifying, or suspending them.

If the application of the measures provided for in this Article lasts more than one year, the General Secretariat, on its own initiative or upon the request of any of the Member Countries, shall propose to the Commission that negotiations be immediately initiated in order to seek the elimination of the adopted restrictions.

### *Article 108*

If the execution of the Tariff Reduction Program of the Agreement causes or threatens to cause serious damage to the economy of a Member Country or to one of its significant economic sectors, that country may, with the prior permission of the General Secretariat, apply temporary corrective steps in a nondiscriminatory manner. When necessary, the General Secretariat may propose to the Commission collective cooperation measures for the purpose of surmounting the problems that arise.

The General Secretariat shall periodically study the evolution of the situation to keep the restrictive measures from lasting any longer than is strictly necessary or to consider new formulas for cooperation, if appropriate.

When the injuries dealt with in this Article are so serious that they require immediate steps, the Member Country adversely affected may apply corrective measures temporarily, on an emergency basis, subject to the subsequent pronouncement of the General Secretariat.

Those measures shall do the least damage possible to the Tariff Reduction Program, and so long as they are implemented unilaterally, they may not involve a decrease in the importation of the product or products in question in terms of the average for the twelve preceding months.

The Member Country which adopts those measures shall immediately inform the General Secretariat thereof and the latter shall issue its views on them within the thirty following days, either to authorize, modify, or suspend them.

*Article 109*

When a product originating in the Subregion is being imported in such quantities or conditions as to cause a disturbance in the domestic production of specific products of a Member Country, it may apply corrective measures, that are nondiscriminatory and of a temporary nature, subject to the subsequent pronouncement of the General Secretariat.

The Member Country that applies the corrective measures, within no more than sixty days, must notify the General Secretariat and present a report regarding the underlying grounds for their application. The General Secretariat, within sixty days after receiving the aforementioned report, shall verify the disturbance and the origin of the imports causing it, and shall issue its pronouncement, either to suspend, modify, or authorize said measures, which may only be applied to the products of the Member Country where the disturbance originated. The corrective measures that are applied shall guarantee access for a volume of trade not inferior to the average for the last three years.

*Article 110*

If a currency devaluation made by one of the Member Countries alters the normal conditions of competition, the country which considers itself to be adversely affected may bring the case before the General Secretariat, which should hand down its opinion briefly and summarily. Once the General Secretariat has verified, the existence of the disturbance, the adversely affected country may take temporary corrective measures so long as the condition exists, while abiding by the General Secretariat's recommendations.

In any case, those measures may not involve a reduction in the levels of imports existing prior to the devaluation.

Without prejudice for the application of the temporary measures referred to, any of the Member Countries may request that the Commission give a final decision on the matter.

The Member Country which devalued its currency may request at any time that the General Secretariat review the situation, in order to ease or eliminate the cited corrective measures. The General Secretariat's opinion may be amended by the Commission.

In the situation referred to in this Article, the country which considers itself to be adversely affected may, in presenting the case to the General Secretariat, propose protective measures that are commensurate with the magnitude of the alleged disturbance, accompanied by the technical grounds for its proposal. The General Secretariat may request any supplementary information it considers advisable.

The brief and summary pronouncement of the General Secretariat shall be given within a period of one month after the request is received. If the General Secretariat does not hand down its opinion within that period and the requesting country feels that said delay may be harmful to its interests, it may adopt the initial measures which it proposed; it shall immediately inform the General Secretariat thereof and the latter, in its subsequent opinion, shall decide whether the measures taken should be maintained, modified, or eliminated.

In its pronouncement, the General Secretariat shall bear in mind, among other criteria, the economic indicators on the conditions of competition in the Subregion which the Commission may have adopted generally, at the General Secretariat's proposal, the individual characteristics

of the foreign exchange systems of the Member Countries and any studies which the Monetary and Foreign Exchange Council carries out on the matter.

Until the system of economic indicators has been adopted by the Commission, the General Secretariat shall proceed according to its own criteria.

Notwithstanding the foregoing, if, during the period between the presentation in question and the General Secretariat's pronouncement, in the opinion of the applicant Member Country, there are background factors which give reasonable grounds to fear that, as a result of the devaluation, there shall be immediate harmful effects which may have serious implications for its economy and thus call for the adoption of protective measures on an emergency basis, it may bring the situation before the General Secretariat; the latter, if it finds the request to be well grounded may authorize the implementation of suitable measures, for which purpose it shall be given a period of seven continuous days. The General Secretariat's final pronouncement on the alteration of the normal conditions of competition shall, in any case, determine whether the authorized emergency measures shall be maintained, modified, or suspended.

The measures that are adopted in keeping with this Article may not involve a decrease in the levels of trade which existed prior to the devaluation.

The second and third subsections of this Article shall be fully applicable to these measures.

#### *Article 111*

No safeguard clauses of any kind shall be applied to the importation of products originating in the Subregion and included in the Programs and Projects of Industrial Integration.

### **CHAPTER X: ORIGIN**

#### *Article 112*

The Commission shall, at the General Secretariat's proposal, adopt any special rules necessary for determining the origin of goods. Such rules shall constitute a dynamic instrument for the development of the Subregion and shall appropriately contribute to the attainment the Agreement's objectives.

#### *Article 113*

It shall be the General Secretariat's responsibility to establish the specific requirements of origin for the products requiring so. When an Industrial Integration Program calls for setting specific requirements, the General Secretariat shall decide on them as the corresponding program is being approved.

Within the year following the establishment of a specific requirement, the Member Countries may request its review by the General Secretariat, which must give its opinion summarily