



SAFEGUARD MEASURES

By

R. K. GUPTA

Former

Chairman, Settlement Commission;
Director General (Safeguards); and
Director, Ministry of Commerce



SAFEGUARD MEASURES

2

- **MEASURES TO PROTECT DOMESTIC PRODUCERS**
- **FROM THE ONSLUAGHT OF INCREASED IMPORTS**
- **ACT AS A SAFETY VALVE MECHANISM**



WTO FRAMEWORK

3

- ❑ **ARTICLE XIX OF GATT 1994-EMERGENCY ACTION**
- ❑ **AGREEMENT ON SAFEGUARDS (AOS)**
- ❑ **GATT 1994 is “legally distinct” from the GATT 1947-GATT 1994 and the AOS both being Multilateral Agreements on Trade in Goods contained in Annex 1A of the WTO Agreement, both are “integral parts” of the WTO Agreement, and are “binding on all Members”**



MAIN INGREDIENTS OF ARTICLE XIX OF GATT 1994

4

- ❑ **UNFORESEEN DEVELOPMENTS**
- ❑ **OF THE EFFECT OF OBLIGATIONS INCURRED**
- ❑ **ANY PRODUCT BEING IMPORTED IN SUCH INCREASED QUANTITIES AND UNDER SUCH CONDITIONS**
- ❑ **CAUSING SERIOUS INJURY OR THREAT THEREOF**
- ❑ **TO DOMESTIC PRODUCERS OF LIKE AND DIRECTLY COMPETITIVE PRODUCTS**



AGREEMENT ON SAFEGUARDS

5

- ❑ **A COVERED AGREEMENT**
- ❑ **CLARIFIES DISCIPLINE OF GATT 1994 AND SPECIFICALLY THOSE OF ARTICLE XIX**
- ❑ **ESTABLISHES MULTILATERAL CONTROL OVER SAFEGUARDS BY ESTABLISHING RULES FOR THE APPLICATION OF SAFEGUARD MEASURES**



UNFORESEEN DEVELOPMENTS

6

- **“Unforeseen”, particularly as it relates to the word “developments”, is synonymous with “unexpected”**
- **“Unforeseeable”, on the other hand, is defined in the dictionaries as meaning “unpredictable” or “incapable of being foreseen, foretold or anticipated”**
- **There must be a “logical connection” linking the “unforeseen developments” and an increase in imports**
- **Not referred to in the AOS, but needs to be specifically satisfied**
- **Investigation Report to include a finding on this**



OF THE EFFECT OF OBLIGATIONS INCURRED

7

- **Safeguard measures relate to obligations incurred-Reduction in tariffs and removal of QRs**
- **If the increase in imports not because of obligations incurred, remedy would not lie in suspending obligations or in withdrawing concession**



INCREASED IMPORTS

8

- **Increase in absolute terms or compared to domestic production**
- **In terms of quantity or value**
- **Compared to a previous level of imports-Base Period or Period of investigation**

预览已结束，完整报告链接和二维码如下：

https://www.yunbaogao.cn/report/index/report?reportId=5_5180

