

# Safeguards Agreement: Overview

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# Requirements on a user of Safeguards duty

- Legal and institutional framework
- Notify and implement domestic laws in conformity with Article XIX of GATT and the Agreement on Safeguards
- Investigating authority

# Legal Basis

- GATT article XIX+SG Agreement
- Domestic law
- Regional rules

# Safeguards

- Investigation necessary before applying a safeguard measure
- Safeguard measures differ from AD/CVD measures:
  - No “unfair” trade practice
  - Higher injury threshold
  - Applied on an MFN basis
  - Have to pay compensation for it
  - Non-application of same measure
  - Wider like product definition

## Article XIX of GATT: Substantive Criteria

- As a result of:
  - Unforeseen developments
  - Importing Member's GATT/WTO obligations
- Increased imports
- Causing or threatening to cause serious injury

# Increased Imports

- Absolute, or
- Relative to domestic production
- Important distinction--certain legal effects will depend on the type of increase.
- Recent enough, sudden enough, sharp enough, and significant enough, both quantitatively and qualitatively, to cause or threaten to cause "serious injury".

(AB, *Footwear*, para. 131; *US – Steel Safeguards*, paras. 345-346)

# Domestic Industry

Like or directly competitive products

# Injury in SG Investigations

- **Higher standard: “Serious injury”**
  - “Serious injury” (current)
  - “Threat of serious injury” (imminent)
- **Definition:** “Significant overall impairment in the position of the domestic industry” (Art. 4.1(a))
- **List of factors to be examined**

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