



# Trade Guide: WTO Safeguards

## WTO SAFEGUARDS AGREEMENT

### What is this Agreement and what does it do?

The Agreement on Safeguards of the World Trade Organization (WTO) establishes rules for the application of safeguard measures by WTO member countries. A safeguard is a temporary import restriction (for example a quota or a tariff increase) that a country is allowed to impose on a product if imports of that product are increasing so as to cause, or threaten to cause, serious injury to a domestic industry that produces a similar or directly competitive product.

Under the WTO rules set forth in this Agreement, WTO member countries must conduct an investigation before they can apply a safeguard measure, and they must make a formal determination that imports of the product are significantly impairing or threatening to impair a domestic industry. Countries are also required to provide public notice to all interested parties of their intention to apply a safeguard measure and to give exporters ample opportunity to present their views.

All [members of the WTO](#) are parties to this Agreement.

The Agreement went into effect on January 1, 1995. It has no expiration date.

### Who benefits from this Agreement?

All U.S. companies conducting international business can benefit from this Agreement, which establishes strict ground rules for the application of safeguard measures. The Agreement's notification requirements help to ensure that American exporters will be fully informed about the nature of any safeguard measure, the products it will cover and how long it will last. Under this Agreement, in the investigation that must precede the application of a safeguard measure, exporters may state their views, present evidence and respond to the presentations of other parties.

### How can this Agreement help my company?

If your company exports products to a country that is considering implementation of a safeguard measure that could adversely affect your exports, the WTO Safeguards Agreement can help you protect your interests. This is how the Safeguards Agreement works in practice:

An importing country must first conduct an investigation to determine whether imports have caused serious injury, or are threatening to cause serious injury, to a domestic industry that produces similar or directly-competitive products. If serious injury (a significant impairment in the position of the domestic industry) or a

threat of serious injury (which must be clearly imminent and shown by facts, not mere allegations) is found, then the government of the importing country may apply a safeguard measure to protect the affected industry.

The importing country must first provide public notice to all interested parties on the proposed safeguard measure and give them the opportunity to comment. A country's notification process usually requires publication of the proposed measure in its official gazette (the equivalent of the Federal Register). Businesses that may be affected by the proposed safeguard action may also be contacted directly.

Once a safeguard is implemented, it must be gradually liberalized over time. Normally safeguards may last no more than four years, but they may be extended for up to eight years if the country implementing the safeguard deems it necessary to do so in order to prevent or remedy serious injury. Developing countries are allowed to keep safeguards in place for up to ten years. All safeguard actions require payment of compensation — in the form of substantially equivalent trade concessions — for any implementation beyond three years.

If a safeguard has been used to protect a particular industry, any additional safeguard action to protect that same industry may not be taken for a prescribed period of time after the original safeguard expires. For example, if a safeguard measure for a particular product were in place for three years, the importing country must generally wait for three more years before applying a new safeguard measure for that same product.

Any WTO-member country that either initiates an investigation or implements a safeguard measure must notify the [World Trade Organization's Committee on Safeguards](#) of its actions. The United States, which is a member of this Committee, is thus aware of all potential safeguard measures. The Committee monitors and reports on the implementation of the Safeguards Agreement and makes recommendations for its improvement.

There are several ways to learn about potential safeguard actions in countries where your company conducts business. First, your company may be contacted directly by the government that is considering safeguard actions (especially if your company is a major exporter of the product involved), or by a company that imports your product. Second, you can review the official gazettes of countries where you export. Third, you may be contacted by the U.S. Government after it learns that one of our trading partners has decided to initiate a safeguard investigation. (The U.S. Government does not, however, publish information on safeguard measures taken by other countries in the Federal Register.)

## **Can the U.S. Government help me if I have a problem?**

Yes. If you become aware of safeguards that have either adversely affected your company's export business or have the potential to do so, contact the Office of Trade Agreements Negotiations and Compliance's [hotline](#) at the U.S. Department of Commerce. The U.S. Government is available to provide information and assistance to American companies that believe they have been harmed by a WTO-member country's noncompliance with this Agreement. Although it cannot guarantee that your problem can be solved, the U.S. Government can, if appropriate, raise the particular facts of your situation with officials of the other country involved.

Disputes under the Safeguards Agreement can also, in certain circumstances, be resolved by the U.S. Government through the WTO's dispute settlement process, which is described in the [Trade Guide to the WTO Understanding on the Settlement of Disputes](#).

## **How can I get more information?**

The complete text of the WTO Agreement on Safeguards is available from the Office of Trade Agreements Negotiations and Compliance's [WTO Agreements database](#).

If you have questions about this Agreement or how to use it, you can [e-mail](#) the Office Trade Agreements Negotiations and Compliance which will forward your message to the Commerce Department's Designated Monitoring Officer for the Agreement. You can also contact the Designated Monitoring Officer at the following address:

Designated Monitoring Officer

WTO Safeguards Agreement

Office of Antidumping/Countervailing Duty Policy

Enforcement and Compliance

International Trade Administration

U.S. Department of Commerce

14th Street & Constitution Avenue, N.W.

Washington, D.C. 20230

Tel: (202) 482-3415

Fax: (202) 482-6190

You can also visit the [World Trade Organization's Home Page](#) where you can obtain additional information on the Safeguards Agreement as well as general information about the WTO.