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Abstract

The Unforeseen Developments Clause in Safeguards under the WTO: Confusions in Compliance

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In this article the author explores in detail the “unforeseen developments” requirement in the Agreement on Safeguards under the WTO. The author seeks to answer questions such as whether the requirement (i.e., unforeseen developments must be demonstrated in order for safeguard measures to be justified) is an integral part of the Agreement on Safeguards, and how the subjectivity associated with this requirement contributes to the difficulty of constructing a reasoned and adequate account of the causal chain. The article also includes within its scope a brief analysis of larger issues such as the political and economic rationale behind safeguard measures, and how ambiguities in the Agreement on Safeguards can destabilize the discipline of safeguards and defeat one of its major purposes – to help countries nurture their infant industries. Finally, the article reflects upon how India, being one of the leading users of safeguard measures as of 2008, is likely to be affected by unclear areas in the present legislation such as the unforeseen developments clause.

Keywords: India, international trade, safeguards, unforeseen developments, WTO