

Article 4.6: Global Emergency Actions

1. The Parties retain their rights and obligations under Article XIX of the GATT 1994 or any safeguard agreement pursuant thereto except those regarding compensation or retaliation and exclusion from an action to the extent that such rights or obligations are inconsistent with this Article. A Party taking emergency action under Article XIX or any such agreement shall exclude from the action imports of a good from the other Party unless:

- (a) imports from the other Party account for a substantial share of total imports; and
- (b) imports from the other Party, contribute importantly to the serious injury, or threat thereof, caused by imports.

2. In determining whether:

- (a) imports from the other Party account for a substantial share of total imports, those imports normally shall not be considered to account for a substantial share of total imports if the other Party is not among the top five suppliers of the good subject to the proceeding, measured in terms of import share during the most recent three-year period; and
- (b) imports from the other Party contribute importantly to the serious injury, or threat thereof, the competent investigating authority shall consider such factors as the change in the import share of the other Party, and the level and change in the level of imports from the other Party. In this regard, imports from the other Party normally shall not be deemed to contribute importantly to a serious injury or threat thereof if the growth rate of imports from the other Party during the period in which the injurious surge in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.

3. A Party taking such action, from which a good from the other Party is initially excluded, pursuant to paragraph 1, shall have the right subsequently to include that good from the other Party in the action in the event that the competent investigating authority determines that a surge in imports of such good from the other Party undermines the effectiveness of the action.