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RELATIONSHIP BETWEEN ARTICLE XIX OF GATT 1994 AND AGREEMENT ON SAFEGUARD*

Abstract

Agreement on Safeguard (SA) largely sets out the substantive and procedural requirements to be followed in the imposition of a safeguard measure in conjunction with Article XIX of GATT. The Uruguay Round Negotiations has incorporated both GATT 1994 (Lex Generalist) and SA (Lex Specialist) and according to Annex 1A of WTO Agreement lex specialist will be prevailed over lex generalist. Also some scholars argued that GATT Article XIX is replaced by SA but some said that it is not replacement rather Article XIX has been supplemented by SA. There are many instances where Panels and Appellate Body have tried to establish the relationship between both Article XIX of GATT and SA and concluded that both will be applicable. But larger question comes when there is a question of requirement of 'unforeseen development' which has not been incorporated by SA. Hence the questions arise that whether GATT Article XIX is replaced or supplemented by SA and what is the relationship between Article XIX of GATT and SA? The author will try to find out the relationship between Article XIX of GATT and SA on the basis of negotiation history, different legal provisions of WTO Agreement and reports of the Panel and Appellate Body.

Introduction:

Safeguard measures are the import restrictions imposed by the WTO Members to save their domestic industries. Safeguard measures are applicable as right by the Members of WTO and these measures are basically the quantitative restrictions on the imports of fair trade.[1]Safeguard mechanism is not a new inclusion in the WTO; it is in existence since GATT 1947[2]. Presently Article XIX of GATT 1994 and Safeguard Agreement (SA) both deal with safeguard mechanism[3]. The history of GATT law shows that Article XIX is also known as escape clause that has taken from USA law. There was an escape clause in a trade agreement between United States and Mexico in 1942 to control increasing imports which was affecting domestic industries. Latter after failure of ITO, the escape clause was adopted in GATT 1947 under Article XIX as emergency measure to protect domestic industries of the Members from increasing imports. [4] There were many faults in the GATT Article XIX (especially VERS or gray area) as:(1) There was lack of detailed procedural requirements to investigate to safeguard measures as well as lack of transparency in the processes; (2) No clear definition of serious injury so, it allowed governments to take arbitrary decisions; (3) In adequacy of the notification and consultation processes; (4)Lack of guidelines for the duration of safeguard measures; (5) Un disciplined gray area measures that prevailed over safeguards. The Members of GATT tried

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[1] Matsushita, Mitsuo. (2006), *The World Trade Organization: Law, Practice and Policy*, New York: Oxford.

[2]Sauermilch, Thomas. (1982), 'Market Safeguards against Import Competition: Article XIX of the General Agreement on Tariffs and Trade, *Case Western Reserve Journal of International Law,* Vol. 14:83

[3] World Trade Organization: The Legal Texts, The Results of the Uruguay Round of Multilateral Trade Negotiations.

[4]Sauermilch, Thomas, supra note 2

to remove all the faults in Tokyo Round 1973. Though Tokyo Round was successful to produce 'codes' in the area of subsidies and antidumping but it was failed to remove the problems relating to safeguard measures under article XIX of GATT 1947.[5]After that the Uruguay Round adopted both GATT Article XIX and SA and it has removed all the problems relating to safeguard mechanism under GATT 1947. But all the provisions of GATT have not adopted in the SA. [6]Though GATT Article XIX was the first safeguard provision in international trading system but the SA is the first specific agreement on safeguard measures. Though the Tokyo Round failed to bring any improvements to Article XIX of GATT but this new SA has a short preamble which starts off by affirming the need to improve and strengthen the international trading system based on GATT 1994. Safeguards need to be considered in this context. So, it can be said that the SA is intended to clarify and reinforce the disciplines of Article XIX of GATT 1994[7]. Safeguard Agreement provides substantive obligations as well as procedural rules for the application of safeguard measures. SA has revised and expanded GATT Article XIX. There are many controversies regarding the relationship between Article XIX and SA and most obvious question is that whether GATT Article XIX will be still applicable even after the enactment of SA.[8]

Requirements of Safeguard Measures under Article XIX of GATT and SA:

'Safeguards' or 'safeguard measures' are emergency import restraints applicable where increased imports cause or threaten to cause serious injury to a competing domestic industry of the import country. The General Agreement on Tariff and Trade (GATT) provides rules for safeguard measures under Article XIX, and the subsequent WTO Agreement on Safeguards elaborates these rules and now provides the main disciplines on safeguards. Safeguard measures provides relief to the import country from economic and social problems caused by rapid import increase such as massive unemployment etc. Safeguards are also meant to facilitate the economic adjustment of the importing country to increased competition with imports.[9] Safeguard measures are applicable non-discriminately or on the basis of WTO MFN (Most favor nation)[10].

The Members of WTO should have to prove the following requirements before imposing safeguard measure as:

1. There must be increased in imports
2. Serious injury to domestic industry
3. Causality between imports and injury[11]
4. There is another requirement of safeguard measures which was in GATT 1947 and remains unchanged even in GATT 1994 that is the 'unforeseen development' but it has not mentioned in SA.

So, the above four criteria are provides in the SA as well as GATT. Except 'unforeseen development' all the above three criteria are in the SA. Debate arises regarding fulfillment of all the criteria by the Members of WTO before imposing safeguard measures.

Whether GATT Article XIX is supplemented by SA or replaced?

[5]Lee, Yong-Shik. (2005), *Safeguard Measures in World Trade: The Legal Analysis,* Kluwer Law International
[6] Matsushita, Mitsuo, supra note 1
[7]Qureshi, Asif. (2006), *Interpreting WTO Agreements: Problem and Perspective,* Cambridge publication.
[8]Appleton, Arthur E & Plummer Michael G. (2007),*The World Trade Organization: Legal, Economic and Political Analysis, United States:* Springer Science & Business Media
[9]Lee, Young-Shik. (2006), Reclaiming Development in the World Trading System,
[10] Safeguard Agreement, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/tratop_e/safeg_e/safeg_e.htm
[11]Chimni. B.S. Kelegama, Saman. Rahaman, Mustafizur. Philip, Linu Mathew. (2007-2008), *South Asian Yearbook of Trade and Development,* Centre for Trade and Development New DelhiAcademic Foundation, 2009 - Business & Economics

As we have already seen in the introductory paragraph of this paper that safeguard measures under Article XIX of GATT 1947 has suffered lots of extralegal obstacles (gray area). Though Tokyo round tried to remove those loopholes from GATT 1947 but failed. After that again same initiatives had taken during Uruguay Round trade negotiations (1986-1994). Many international scholars argued that there was a need of revising GATT Article XIX. They said that developing countries had argued that developed countries were systematically used the safeguard measures for extended period of time to protect their own domestic industries from the emergence of more competitors. At the same time the developed countries argued that Article XIX of GATT was abused by their trading partners as a protectionist ends. Hence different proposals were coming out both form developed as well as developing countries to reform GATT Article XIX.[12] Some scholars also argued that the VERs (Voluntary Export Restraints) measures were creating discrimination among the Members of GATT regarding application of safeguard measures and it was against the non-discrimination principle of GATT. So, proposals were made to reform GATT article XIX. [13] Safeguard Agreement was adopted in WTO as a result of the Uruguay Round trade negotiation. SA became as *lexspecialist* which removed all the gray area (e.g. VERs, Orderly Marketing Arrangements etc.) available in the GATT Article XIX[14]and set up a 'sunset clause'. [15]Article 11(1) (b) of the SA has specifically removed the gray area Article XIX of GATT.[16] But SA has not included all the requirements of Article XIX as unforeseen development. [17]Now fundamental questions arise that whether SA replaced GATT Article XIX or Article XIX is supplemented by SA? There is no such clear answer of this question. Some scholars said that as SA agreement is originated from GATT Article XIX as well as the Uruguay Round negotiation history shows that SA came in to existence to remove all the loopholes of GATT Article XIX.[18]WTO's technical information on SA shows that the main aims of SA are "1. Clarify and reinforce GATT discipline especially Article XIX of GATT; 2. Re-establish multilateral control over safeguards and eliminate measures that escape such control; 3. Encourage structural adjustment on the part of the industries adversely affected by increased imports, thereby enhancing competition in international markets".[19]

So, it has proved that GATT article XIX is supplemented by SA and not replaced. On the other side as we have seen that GATT Article XIX has originated from US law but after Uruguay round, US has adopted SA by removing GATT Article XIX; hence this practice of US is proving that SA has replaced GATT Article XIX.[20]

So, whether SA is supplemented GATT Article XIX or GATT Article is replaced by SA is still debatable issue. But the history of negotiations of both the Tokyo as well as Uruguay Round show that the main intention behind SA was removal of gray area measures of Article XIX of

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[12] Sykes, Alan O. (1991), "Protectionism as a "Safeguard": A Positive Analysis of the GATT "Escape Clause" With Normative Speculations", *The University of Chicago Law Review*, 58 (1): 255-305

[13] Id

[14] Sykes,Alan O. The Safeguards Mess: A Critique of WTO Jurisprudence, Chicago John M. Olin Law & Economics Working Paper No. 187 (2D Series), May 2003, [Online web] Accessed 30th March, 2016, URL: http://www.law.uchicago.edu/Lawecon/index.html

[15] Legal Text of WTO Agreements, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/docs_e/legal_e/legal_e.htm

[16] Id

[17] Id.

[18] Safeguard Agreement, WTO Analytical Index, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/res_e/booksp_e/analytic_index_e/safeguards_e.htm

[19] Technical Information on Safeguard Measures, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/tratop_e/safeg_e/safeg_info_e.htm

[20]Sykes,Alan O, supra note 14
A Critique of WTO Jurisprudence, May 2003, [Online web] Accessed 30th March, 2016, URL: http://www.law.uchicago.edu/Lawecon/index.html

GATT. There was no intention of the negotiators to remove GATT Article XIX. If it was the intention of the negotiators to remove Article XIX, they could do so by express declaration. The preambles of SA as well as other provisions of WTO are the evidences which proved that Article XIX has not replaced rather supplement. Another thing is that GATT Article XIX was focused only on substantive aspects of safeguard measures but SA has extended the substantive rules as well as included procedural aspects. So, we cannot say that only by adding procedural aspects it has replaced GATT Article XIX. In the next paragraph we will see the relationship between GATT Article XIX and SA from different perspective.

Relationship between Article XIX and SA:

Relationship between Article XIX of GATT 1994 and SA is based on different provisions of WTO agreement as well as Panel and Appellate Body reports are as follows:

1. **Originating Principle of SA:**

The negotiating history of SA (Uruguay Round) has shown that SA has originated from GATT Article XIX and later Article XIX is supplemented by the SA.Young -Shik Lee, in his book said that *"The (SGA) adopts the concept of safeguards from Article XIX and builds on it, providing the detailed substantive and procedural rules for the application of safeguards. The progressive and comprehensive nature of the (SGA) does not make its supplementary to the somewhat outdates rules of Article XIX but rather places the old Article, as a complete discipline on safeguard"*[21]

2. Relationship on the basis of legal text of WTO:

a. Annex 1A of Marrakesh Agreement:

Annex 1A of Marrakesh Agreement which is the outcome of Uruguay Round of Multilateral Trade Negotiations provides 'Multilateral Agreement on Trade in Goods'. This agreement has included both GATT 1994 (General Agreement on Tariff and Trade) and Agreement on Safeguard. Both the Agreements have got same independent status in the legal text of WTO. Now question may arise about the legality of independent application of both GATT and SA. Article II.2 of the Marrakesh Agreement has made it clear by providing that, *"The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as "Multilateral Trade Agreement") are integral parts of this Agreement, binding on all Members".*[22]So; this provision makes it clear that both GATT (which includes Article XIX) as well as SA is binding on the Members of WTO and no one is replaced any other. Thus this provision gives independent status to both the SA and Article XIX of GATT as a condition precedent of safeguard measures. As a result both the provisions of safeguard measures should apply simultaneously to impose a safeguard measures by the Members States of WTO.

b. Preamble of Safeguard Agreement:

Preamble of the SA shows the relationship between GATT 1994 (Article XIX) and SA. It provides that the objective of the Members of WTO is to improve and strengthen international trading system on the basis of GATT 1994 which include Article XIX. It has also said that SA reinforces Article XIX and re-establishes multilateral control over safeguards by eliminating such measures those escape such control. And a comprehensive safeguard agreement is applicable for all the Members depending on the basic principle of GATT 1994.[23]

So, it is clear from the language of the preamble of SA that both the SA and Article XIX are applicable on the Members of WTO. And SA is not the sole principle of safeguard measures. It is officially proved by this preamble that SA is carrying the basic principles of GATT and it

[21] Sykes, Alan. O. (2006*), The WTO Agreement on Safeguards: A Commentary*. New York: Oxford University Press.

[22] World Trade Organization: The Legal Texts, supra note 3.

[23] Agreement on Safeguard, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/res_e/booksp_e/analytic_index_e/safeguards_e.htm

reinforced or supplements Article XIX. The following Appellate Body reports have supported the above arguments.

Korea Dairy Products Case[24]:

Korea and United States both argued that the agreement on safeguard is the sole articulation of the rules on safeguards. EC opined that Article XIX is still effective and provides additional rules that are not expressly included in the SA.[25]The provision SA does not expressly mention any provision about its legal relationship with GATT Article XIX. Hence Article II.2 of the Marrakesh Agreement (establishment of WTO) which provides that the agreement and associated legal instruments as Annex 1, 2, 3 (Known as Multilateral Trade Agreement) are the integral parts of this Marrakesh Agreement and Members are binding by it. Article XIX has been included in Annex 1 as a part of GATT 1994 (*Lexgeneralist)*. But the interpretation of Annex 1A provides that SA (*lex specialist*) would prevail over the *lex generalist* (GATT Article XIX)[26]

In this case the Appellate Body stated that the Preamble of SA has given additional support to the AB to conclude that *"all the provisions of both Article XIX of GATT 1994 and the Agreement on Safeguards apply cumulatively and must be given their full meaning and legal effect".* It is also stated that, *"the preamble of SA shows the object and purpose of SA and it must always be remembered that safeguard measures result in the temporary suspension of treaty concessions or the temporary withdrawal of treaty obligations, which are fundamental to the WTO Agreement, such as those in Article II and Article XI of the GATT 1994."*[27]

This AB report has been upheld in the ***US, Lamb*** case[28], where the Panel rejected the arguments of Untied States and referred the statements of Preamble of SA as object and purpose of SA. It has said that Preamble of SA is the evidence of reinforcing Article XIX of GATT 1994. Both Article XIX and SA (especially Article 11.1) refer to safeguard measures as 'emergency' measures and the AB has characterized them as 'extraordinary' remedies. Both provisions help domestic industries from injury caused by increase in imports.

c. Articles 1 and 11.1 of the Agreement on Safeguard:

Article 1 of the SA provides that **"**This Agreement establishes rules for the application of safeguard measures which shall be understood to mean those measures provided for in Article XIX of GATT 1994".[29]Article 11.1 of the SA has explicitly removed all the gray area of Article XIX of GATT.[30]These provisions again show the explicit relationship between GATT Article XIX and SA.

There are some cases where AB has interpreted these Articles and established relationship between GATT Article XIX and SA as follows:

[24]*Korea – Definitive Safeguard Measure on Imports of Certain Dairy Products,* Appellate Body Report, WTO Document WT/DS98/AB/R14 December 1999

[25]Appleton, Arthur E & Plummer Michael G, supra note 8.

[26] Id

[27] Safeguard Agreement, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/res_e/booksp_e/analytic_index_e/safeguards_e.htm , https://www.wto.org/english/res_e/booksp_e/analytic_index_e/safeguards_01_e.htm#article2B2a

[28]*United States – Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia*, Appellate Body Report, WTO Document WT/DS177/AB/R WT/DS178/AB/R1 May 2001

[29]World Trade Organization: The Legal Texts, supra note 3

[30] Article 11 of the Agreement on Safeguard," Article 11: Prohibition and Elimination of Certain Measures
1. (a) A Member shall not take or seek any emergency action on imports of particular products as set forth in Article XIX of GATT 1994 unless such action conforms with the provisions of that Article applied in accordance with this Agreement." [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/res_e/booksp_e/analytic_index_e/safeguards_03_e.htm#article11

i. In ***Korea-Dairy*** case, the AB examined the relationship between Article XIX and SA especially Article II of the WTO Agreement and Articles 1 and 11.1 of the SA. In this case the AB concluded that safeguard measures imposed by the Members of WTO should comply with both Article XIX and SA. It has also stated that Article 1 and 11.1 of the SA provide specific relationship between Article XIX and SA[31].

ii. In ***Argentina — Footwear (EC)***[32], the Appellate Body reversed a conclusion by the Panel and stated that safeguard measures under SA must comply with Article XIX of GATT 1994. The provisions of SA especially Articles 1 and 11.1 of the SA never meant that safeguard measures would be imposed only on the basis of SA and Article XIX would not be followed. Also there was no intention of the negotiators of Uruguay Round to replace GATT Article XIX by SA. So, both the provisions will be applicable to impose a safeguard measure by the Member of WTO.[33]

iii. ***US — Lamb*** case the Appellate Body repeated the decision of *Argentina- Footwear (EC)* case and *Korea-Dairy* case regarding relationship between the Article XIX of GATT 1994 and SA. It concluded that Articles 1 and 11.1 of the SA provide full continuous application of Article XIX and Article XIX should not be in isolation. WTO has included SA to reinforce Article XIX.[34]

iv. ***US — Steel Safeguards*** case the Panel opined that both SA and Article XIX will be applicable cumulatively. And also provided that both Article 1 and 11.1 of the SA reinforce Article XIX.[35]

3. **Relationship between GATT and SA on the basis of Article XIX.1 (unforeseen development[36]) and Article 2 of SA:**

It has already discussed above that 'unforeseen development' is one of the requirements of safeguard measures which has not mentioned in the text of SA. Basically unforeseen development is the first and foremost criteria of imposing safeguard measures under GATT Article XIX. After above discussion it is clear that both SA and Article XIX will be applicable cumulatively. But there are two instances where the above arguments can be denied as,

Annex 1A of the Marrakesh Agreement which provides that "if there is a conflict in between GATT 1994 and a provision of other agreements of WTO, the provision of other agreements of WTO shall prevail over GATT 1994 to the extent of conflict". [37] So, the scholars argued that as 'unforeseen development' is a criterion of Article XIX and not SA. Because SA shall be prevailed over GATT, hence it is not mandatory of the Members of WTO to apply 'unforeseen development' as a condition precedent of safeguard measures apart from the criteria of SA.

Even States practices show that the criteria of 'unforeseen development' has ignored by some States after the adoption of SA. E.g. Section 201 of United States Trade Act 1974 does not include unforeseen development as a requirement of safeguard measures; also in European Legislation on trade has not included unforeseen development.[38]

Now we will look at the WTO Appellate Body reports and views of the scholars regarding the above controversies.

The question relating to application of 'unforeseen development' has been brought for the first time by the European Communities in 1997 ***Korean- Diary* case**. And the same question was

[31] Id

[32] Argentina – Safeguard Measures on Imports of Footwear, Appelllate Body Report, WTO Document WT/DS121/AB/R14 December 1999

[33] Supra note 30

[34] Id

[35] United States — Definitive Safeguard Measures on Imports of Certain Steel Products, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds252_e.htm

[36] WTO Analytical Index: GATT 1994, Article XIX: Emergency Action on Imports of Particular Products, [Online web] Accessed 30th March, 2016, URL: https://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_07_e.htm

[37] World Trade Organization: The Legal Texts, supra note 3

[38] Sykes, Alan. O, supra note 22

again brought for the second time by EC in ***Argentina Footwear*** case in 1998. EC complained that both the respondents' countries failed to comply with Article XIX of GATT before imposing safeguard measures against EC. EC argued that both SA and Article XIX should be applicable cumulatively.[39]

Both the respondents States stated that there was an omission on the part of the drifters to not include 'unforeseen development' in the SA which has created controversies between Article XIX and SA. But Annex 1 A of the WTO has made it clear that SA will be prevailing over Article XIX of GATT 1994 to the extent of conflict.[40]

But neither the Panels made it clear that whether 'omission' has been created conflict in between SA and Article XIX or not. The Panels never rejected the arguments of EU.[41]

Panel of ***Korean-Diary*** case concluded that a requirement of 'unforeseen development' is not mandatory at all. But it simply explained about the necessity of Article XIX. In ***Argentina – Footwear*** case the Panel expressly emphasized on express omission of 'unforeseen development' form SA. Panel argued that if there was intention to revive the clause in SA, the drafters did it expressly. Compliance with SA deemed to be compliance with Article XIX and SA had effectively modified the rules to eliminate any requirements of unforeseen development.[42]

Appellate Body of both the cases concluded that Uruguay Round was a package deal which included both GATT 1994 and SA, so, Members are obliged to follow both the agreements. It was also said that both SA as well as Article XIX would be applicable as condition precedent of safeguard measures.[43]In ***Argentina- Footwear*** case the AB stated that if there was omission on the part of the drafters to remove 'unforeseen development' form SA, they could do so expressly. So, by this way AB again has revived the requirements of 'unforeseen development' as a condition precedent of safeguard measure[44].

Dominican Republic- Safeguard Measures on Imports of Polypropylene Bags and Tubular Fabric case[45]

This case was relating to provisional safeguard measures and definitive safeguard measures imposed by Dominican Republic. Complainants were Costa Rica and El Salvador. It was claimed that the safeguard measures were inconsistent with S.A and GATT, and they also argued that "according to Article 11.1(a) of S.A a member shall not take a safeguard action unless conforms to GATT XIX".

Panel opined that "it is inappropriate to make a preliminary ruling on whether GATT XIX and the Agreement on Safeguard (S.A) are applicable to the present dispute". It can be concluded that Panel intended to apply both S.A and GATT (Article XIX) in regards to imposing safeguard measures.

If there is no application of Article XIX of GATT 1994 then what changes will be made:

After the above discussions it has seen that the controversy on the relationship between Article XIX and SA is still going on. It is the Panel and Appellate Body which have made alive Article XIX as precondition of safeguard measures with SA. Also it has seen that there are many States who do not want to apply Article XIX. So, in this situation one question may arise that if there is no application of Article XIX of GATT 1994, will there be any change in the field of safeguard. As per the available existing system of safeguard measures, there may be following changes as:

[39] Id
[40] Id
[41] Id.
[42] Id
[43] Id
[44] Id
[45] *Dominican Republic- Safeguard Measures on Imports of Polypropylene Bags and Tubular Fabric, Panel Report, WTO Document* WT/DS 415/R/Add/2012

1. There will not be 'unforeseen development' as precondition of safeguard measures.
2. There are different provisions of WTO which already has discussed above included GATT 1994 including Article XIX will be valueless.
3. And Marrakesh Agreement has included GATT 1994 and other *lex specialist* agreements as package deal. And there was no intention of the drafters to adopt those agreements separately. So, it is the obligation of Members of WTO to follow both GATT 1994 (Article XIX) as well as SA.
4. Also the text of SA has already included Article XIX not as a separate provision rather it completes the sentence. The provisions of SA has structured in such a manner that application of Article XIX will come always and there will be no sense of the sentence if Article XIX is removes.

Conclusion:

So, it is clear that though it is the tendency of some Members of WTO to avoid Article XIX and follow only SA e.g. India has not included 'unforeseen development' in its national legislation on safeguard[46]. But neither the text of WTO nor the Panel or Appellate Body of WTO will allow suspending the application of Article XIX. Even in the recent cases that we already have discussed above, the Panel and appellate Body have reinforced Article XIX along with SA. It can be concluded that this controversy will remain same until and unless there is any explicit declaration about application of Article XIX and SA. And it is totally depends on the Panel and Appellate Body that how they will interpret the provisions of safeguard measures to revive the relationship of Article XIX of GATT 1994 and SA.

[46] India, national legislation on safeguard, Safeguard Duty Rules under the Customs Tariff Act, 1975, [Online web] Accessed 5th May, 2016, URL: http://dgsafeguards.gov.in/transitional_safeguard_provisions.html