

Preface to the first edition

After spending a decade in the United States and England studying economics and law, I returned to my home country, Korea, and began my professional career as a Legal Counsel at the Ministry of Foreign Affairs and Trade in 1998. I still remember my first day at the Ministry. Shortly after I finished with a customary tour to introduce myself to the various members of the Ministry staff, I was asked to review a pile of ring-bound materials – with hundreds of pages. Those materials were the record of a dispute between Korea and the European Communities (EC) over Korea's safeguard measure on its imports of dairy products. The dispute later became the first case on safeguards to be reviewed by the panel established by the Dispute Settlement Body of the World Trade Organization (WTO), *Korea – Definitive Safeguard Measure on Certain Dairy Products*.

Little did I know at that time, my first assignment shaped my future as an academician. I started my career as a trade lawyer by taking on this safeguard case and left the Ministry shortly after the conclusion of the case. Of course, the safeguard case was not the only assignment during my service at the Ministry. However, I devoted myself to this case, as it was my first assignment at the Ministry, which I considered important. During my preparation for the upcoming WTO proceedings, I was frustrated by the lack of reference materials on safeguards. There were only a few pre-WTO cases on safeguards. I found short chapters on safeguards in some treatises on international trade law, but hardly was there a comprehensive and detailed reference to safeguards that provided me with the answers to various issues raised in our dispute with the EC.

The government officials in charge of safeguard investigations also complained that they could not find a good guide to the WTO rules on safeguards. The lack of references seemed to make it difficult for them to understand and then apply the new rules on safeguards correctly. As a result, a proper investigation and adequate application of safeguard measures may not have been ensued. Safeguard measures interfere substantially with a normal stream of trade, and their improper application would undermine the objectives of the WTO.

The absence of comprehensive materials on safeguards made me consider writing a reliable reference to the WTO rules on safeguards. I studied the subject of safeguards in depth while preparing for the WTO panel and the Appellate Body process. In addition, I also have had a chance to expand the scope of my research to safeguards for trade in services, as I was assigned to develop Korea's position on emergency safeguard measures under Article X of the General Agreement on Trade in Services.

Thanks to my extensive research on safeguards, I have had the privilege of publishing several articles on this subject in leading journals. In those articles, I have analyzed the WTO Agreement on Safeguards in comparison with the provisions of the GATT Article XIX and identified the important issues and problems raised in the recent WTO panel cases. I also have made efforts to provide working solutions to those problems. I believe that the extent of my professional experience and academic research in this area has finally brought me to the point where I could embark on a more substantive work on safeguards such as this book.

This book offers a legal analysis of safeguard measures. As I write this book, I have considered not only the questions and concerns of governments and academicians interested in safeguards but also those of businesses whose global business interests would be significantly affected by the application of safeguard measures. As the globalization of the economy progresses rapidly, foreign markets are becoming crucial to more and more businesses. I remember that a group of frustrated exporters appealed desperately to their government for assistance when safeguard measures were applied to their products. They had spent years to develop the overseas market, and years of their efforts were about to go down the drain, as the proposed safeguard measures would seriously limit their sales in that foreign market. I would also like to offer some help to those businesses by providing them with a useful legal guide to safeguard measures so that they can examine the legitimacy of the applied measure and better advocate their interests to the governments of their own as well as of the importing country.

Readers may expect from this book a comprehensive coverage on safeguards to date with a legal analysis of the important issues in the interpretation and application of the current rules on safeguards. I also have proposed modification of the current rules to enhance and clarify the discipline of safeguards. Certain issues still remain controversial and have yet to be settled. Readers may not find full answers to all potential problems concerning safeguards, but I have endeavored to offer solutions to many of them. I would feel most rewarded for my work if readers find

this book a comprehensive and reliable reference to safeguard measures which I wished to find at the beginning of my career as a trade lawyer.

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