

# 긴급수입제한조치협정 해설

## 1. 개요

- 수입물량이 급증할 경우 수입제한 조치를 발동할 수 있도록 한 긴급수입제한 조항(GATT 제19조)
  - 동 조항 발동시 MFN 원칙 준수 및 동 조치로 인해 영향을 받는 국가에 대한 보상 의무등을 규정
  - 반덤핑, 상계관세등 불공정무역 규제 제도보다 발동요건 엄격
  - 요건이 엄격하고 까다로와 동 조치 사용을 기피
- 긴급수입제한조치 발동 대신 양자차원에서의 수입제한 조치 강요
  - 수출자율규제(VER), 시장질서유지협정(OMA) 등
  - GATT 비규정된 회색조치(grey area measures), 긴급수입제한조치(Safeguard)의 실효성 위협
- 긴급수입제한조치의 실효성 제고 및 회색조치 규범권 내 흡수 필요성

### Article 1 safeguard measures mean measures in Article XIX GATT

#### Article 2 적용 조건

1. ...may apply a S.M only such product is being imported
  - in such increased quantities, absolute or relative, and
  - under such conditions as to cause or threaten to cause serious injury
  - to the domestic industry that produces like or directly competitive products.
2. .. shall be applied to a product being imported irrespective of its source.

## Article 3 조사 (1/2)

### 1. 공고 및 의견 진술 기회 부여

- ..may apply S.M only following an investigation
  - pursuant to procedures previously established
  - and made public
  
- investigation shall include reasonable public notice and hearings or other appropriate means
  - in which 수출입자/이해관계자 could present evidence and their views,
    - respond to the presentations of other parties and
    - submit their views whether S.M be in the public interest.
  
- ..authorities shall publish a report on
  - their findings and reasoned conclusions on all pertinent issues of fact and law.

## Article 3 조사 (2/2)

### 2. 비밀 정보의 보호

- information by nature confidential or provided on a confidential basis
  - be treated as such
  - not be disclosed without permission of submitter.
  
- ..may request to furnish non-confidential summaries or,
  - reasons why a summary cannot be provided
  
- if authorities find that a request for confidentiality is not warranted and
  - if the party, unwilling to make the information public or
    - to authorize its disclosure in generalized or summary form,
  - the authorities may disregard such information if not demonstrated the information is correct

## Article 4 Determination of Serious Injury or Threat Thereof

1. (a) "serious injury" = significant, overall impairment a domestic industry;

(b) "threat of serious injury" = serious injury clearly imminent

shall be based on facts, not allegation, conjecture, possibility;

(c) "domestic industry" = the producers as a whole of the like or directly competitive products, or

those whose collective output .. constitutes a major proportion of the total domestic production

### 2. 피해 판정

(a) 피해 판정시..shall evaluate all relevant factors on the situation of that industry,

- rate & amount of imports increase, share of the domestic market, changes in sales, production, productivity, capacity utilization, profits & losses, and employment.

(b) 피해 판정 shall not be made

- if not demonstrated causal link between imports+serious injury or threat

o 수입 증가 이외로 초래된 피해 shall not be attributed to increased imports.

(c) ..shall publish promptly a detailed analysis of the case under investigation

demonstration of the relevance of the factors examined

## Article 5 application of Safeguard Measures (1/2)

### 1. 긴급수입제한조치의 적용 및 방식

- S.M shall only be applied to the extent necessary to prevent or remedy serious injury and to facilitate adjustment
- 수량 제한의 경우
  - .. shall not reduce 수입량 below the level of a recent period
    - which shall be 통계 가능한 지난 3년간 평균 수입량,
    - unless clear justification is given that a different level is necessary
- Members should choose measures most suitable for 피해 방지

## Article 5 application of Safeguard Measures (2/2)

### 2. (a) 쿼타 할당의 경우, .

..may seek agreement with all other 공급국 having a substantial interest

if not practicable, .. shall allot to 위 국가

shares of 수입총량 or 가액

- based upon the proportions, supplied by such Members
- during a previous representative period
- due account for special factors affecting(ed) the trade

(b) ..may depart from (a), if

- if 12조3 consultations are conducted and

- if provided, a clear demonstration that

- (i) imports from certain Members have increased in disproportionately in the representative period,
- (ii) reasons for the departure from (a) are justified, and
- (iii) conditions of such departure are equitable to all suppliers concerned.

The departure referred to above shall not be permitted in the case of threat of serious injury.



## Article 6 Provisional Safeguard Measures

- where delay would cause damage difficult to repair,
  - ..may take a provisional S.M pursuant to a preliminary determination that
    - clear evidence that increased imports have caused or are threatening to cause serious injury.
  
- duration ..shall not exceed 200 days
  
- 잠정 조치 should take the form of tariff increases to be promptly refunded
  - if the subsequent investigation does not determine..caused or  
threatened to cause serious injury
  
- 잠정 조치기간은 본 조치 기간의 일부로 간주

## Article 7 Duration and Review of Safeguard Measures (1/2)

1. only necessary period to prevent or remedy serious injury and  
to facilitate adjustment  
not exceed four years, unless extended
2. may be extended  
provided that 수입국 당국 determined that S.M continues to be necessary to prevent or remedy serious injury and  
that there is evidence that the industry is adjusting, and  
provided that 8조(양허), 12조(통보) are observed.
3. 잠정 조치+본 조치+연장 포함 총 기간 shall not exceed 8년.
4. 자유화
  - If duration of S.M is over 1년,  
..shall progressively liberalize S.M at regular intervals
  - If exceeds 3년  
.. shall review the situation not later than the mid-term of the measure and, if appropriate,  
withdraw it or increase the pace of liberalization.
  - A measure extended.. shall not be more restrictive than 직전, and  
should continue to be liberalized.

## Article 7 Duration and Review of Safeguard Measures (1/2)

### 5. 수입 제한 조치 적용 상품에 대한 재적용 금지

- for a period of time equal to 이전 적용 기간,
- provided that the period of non-application is at least 2년

### 6. 180일 이하 조치는 재적용 가능, if

- (a) at least one year has elapsed since 도입일; and
- (b) S.M not been applied on the same product more than twice  
in the five-year period 도입일 직전

## Article 8 Level of Concessions and Other Obligations

1. S.M 적용 및 연장 예정국 shall endeavour to maintain
  - a substantially equivalent level of concessions and other obligations
  - between it and 조치 영향국,
    - ..the Members concerned may agree on any adequate means of trade compensation
  
2. If no agreement in 30 days in 12조3 consultations,
  - 수출국 shall be free, 조치 적용일 후 90일 이내,
    - to suspend, 상품무역이사회에 정지 통보후 30일 경과 및 이사회 불반대 경우,
      - the application of 조치도입국과의 무역상의 양허/의무 under GATT 1994
  
3. right of suspension ..shall not be exercised for the first three years of S.M in effect,
  - provided that S.M has been taken as a result of an absolute increase in imports and
    - that such a measure conforms to the provisions of this Agreement.

## 9조 개도국 우대조치

- 적용기간을 최장 2년까지 연장 가능
- 수입시장점유율이 3%를 초과하지 않는 개발도상회원국의 점유율의 합이 관련상품 총 수입의 9%를 넘지 않을 경우
  - 개도국에 부적용

**10조~14조** 기존 조치 종료 시한, 각종 회색 조치 철폐, S.M위원회 설치, 분쟁 해결 등