

UNFORESEEN DEVELOPMENTS

INDIAN CASES

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- **Provisions relating to “Unforeseen Development” in Indian Safeguard law**
- [SECTION 8B. Power of Central Government to impose safeguard duty. — (1) If the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article :

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- Practice followed by investigating authority in India-
- Prior to the WTO AB decision in the Argentina Footwear and Korea Dairy Products case
- After the WTO AB decision in the Argentina Footwear and Korea Dairy Products case

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- The unforeseen developments must be related to increased imports-These may be product specific (like or directly competitive products; for example LCD and LED TVs, Cotton and Polyester shirts), industry specific (change in technology etc may have a great impact), country specific (lack of infrastructure, not keeping pace with developments elsewhere) or may relate to the international market situation (for example surplus capacities, melt down of currency)

Some cases in India

- . Imposition of safeguard duty on the raw materials of BPA namely Acetone and Phenol and establishment of additional capacity of 6 lakh TPA of BPA in Asia-BPA case
- Current global recession, more pronounced in the developed countries, leading to decline in the demand for the products under consideration and resultantly producers facing with significant unutilized capacities-indicated by declining prices; quite large but also very stable and sustained Indian market offering significant market opportunities to the global suppliers-Oxo Alcohol case

- Recession in global economy triggered by US sub-prime crisis in 2008-prime producers of PAN losing their traditional markets in USA and China, aggravated by deepening financial crisis in South Korea, depreciation of Korean Wan 41% -Phthalic Anhydride case
- Slowdown in the end markets of Europe and America and worsening scenario due to the crises in Spain, Italy, Portugal, Greece, and Ireland-surplus production diverted to India coupled with imposition of ADD on PAN by China and Pakistan- Phthalic Anhydride case

- Stringent European Environmental regulations compelling Thai exporters to target Indian market and the Indian industry lacking provision of international competitive environment for production at internationally competitive prices-Tapioca case
- A net importing Middle East becoming a net exporting area, decline in China's dependence on imports from Middle East-Aluminium Ingots case
- **The expansions in capacity in the Middle East per se not considered unforeseen since expansion in capacity is not an overnight process; similarly cheap energy cost and freight cost in export to India not considered unforeseen.**

- Imposition of 120% export duty on Yellow Phosphorus (raw material) by China increasing the cost of production of Dimethoate Technical in India-
Dimethoate Technical case