Section 2  Safeguards as a means of facilitating structural adjustment

【Key Points】

1. Safeguard and adjustment

During industrial structural adjustment phases, when imports rise more quickly than expected, international rules allow the application of safeguard measures under certain conditions. Safeguard measures temporarily alleviate the social pain accompanying import surges, such as bankruptcies, unemployment, and the consequent slump in production, and provide industry with a grace period in which to carry through structural adjustment. At the same time, application of safeguard measures generally means higher prices and fewer choices for consumers, user companies and other economic agents, and has the additional demerit of impacting negatively on a country’s GDP.

To avoid these safeguard side-effects, (1) the various economic agents participating in the market need to constantly make efforts to gather information on market trends at home and abroad, boosting the predictability of import trends; in addition to which (2) early structural adjustment needs to be achieved through labor adjustment measures and efforts to spur innovation, avoiding to the greatest extent possible situations where safeguard measures have to be imposed.

1. Safeguards and adjustment

(1) Outline of the WTO Agreement on Safeguards

(a) Outline of the WTO Agreement on Safeguards

The WTO Agreement on Safeguards provides that, from the perspective of further expanding trade liberalization, where circumstances which were unforeseeable at the time of trade liberalization negotiations lead to a surge in imports of specific products, members may impose import restrictions (tariff measures, import quotas) pursuant to certain conditions (serious injury to domestic industry, causal relations between imports and injury, instigation of measures on the basis of the principle of non-discrimination) as an emergency avoidance measure (Fig. 3.2.1).
A total of 150 safeguard measures were imposed between the inauguration of the GATT in 1948 up until the end of December 1994, immediately prior to the entry into force of the Safeguards Agreement. The great majority were instigated by Australia, the EU, the United States and other developed countries (Fig. 3.2.2) as the major tariff cuts in developed countries resulting from the succession of tariff reduction negotiations under the GATT made it difficult for them to use tariffs to protect domestic industries. Since 1980, developed countries have been imposing fewer safeguard measures; instead, however, there have been more quantitative import restrictions functioning as unilateral measures, more voluntary export restraints by exporting countries, and more substantive import restrictions imposed through anti-dumping measures, targeting specific countries and companies and diverging from the original purpose of providing competitive merit to the imports of other countries and companies. Since the WTO Agreement entered into force in January 1995, developing countries have come to instigate more safeguard measures than developed countries as a means of protecting and fostering domestic industry.

<table>
<thead>
<tr>
<th>Determination of injury</th>
<th>Determined based on imports, production, sales, productivity and other economic elements. A causal link must be demonstrated between increased imports and injury (Article 4, Agreement on Safeguards)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organization of investigation procedures</td>
<td>Prior establishment of investigation procedures, opportunity for involved parties to submit evidence, disclosure of investigation results (Article 3, same)</td>
</tr>
<tr>
<td>Duration of action</td>
<td>Up to four years, extension possible, maximum of eight years (Articles 7.1 and 3, same)</td>
</tr>
<tr>
<td>Force of action</td>
<td>Any quantitative restrictions instituted shall not reduce import quantity below the average of imports for the last three years (Article 5, same)</td>
</tr>
<tr>
<td>Waiting period</td>
<td>No safeguard measures shall be applied again for the same period of time during which the measure was previously applied (two-year minimum period of non-application) (Article 7.5, same)</td>
</tr>
<tr>
<td>Degressivity requirement</td>
<td>Measures taken for more than a year subject to a progressive liberalization obligation (expansion of quotas, etc.); measures taken for more than three years subject to mid-term review (Article 7.4, same)</td>
</tr>
</tbody>
</table>

(b) Structural adjustment provisions in the Safeguards Agreement

The Safeguards Agreement allows the temporary restriction of imports under certain conditions to avoid serious injury to domestic industry due to an import surge, and opens the way for member countries to alleviate pain caused by import competition, such as corporate collapses and unemployment. However, the initial systemic objective of safeguards was not to maintain the existing scale and structure of domestic industries, but rather to provide temporary protection in the event of an import surge to allow industries a grace period in which to undertake the structural adjustment necessary to deal with international competition. Accordingly, the Safeguards Agreement provides not only rules on safeguards investigations, decisions and implementation, but also contains provisions on structural adjustment over the instigation period (Fig. 3.2.3).

For example, safeguard measures can be taken “only to the extent necessary to … facilitate adjustment” and “only for such period of time as may be necessary to … facilitate adjustment”. Moreover, the Agreement states that “In order to facilitate adjustment in a situation where the expected duration of a safeguard measure … is over one year, the Member applying the measure shall progressively liberalize it at regular intervals during the period of application.” However, the Safeguards Agreement does not indicate any specific means of realizing domestic industrial structural adjustment during the safeguard application period, with approaches to adjustment effectively left to the discretion of member countries.

The importance of structural adjustment during the safeguard imposition period was also confirmed by the Subcommittee on Special Trade Measures (Industrial Structure Council) in its 2001 report, which noted that safeguard measures should be instituted for the relevant products
where the competitiveness of the domestic industry is expected to recover during the safeguard instigation period, or where the adjustment of the domestic industry is expected to be achieved through other means.

(2) Economic impact of instituting safeguard measures

The institution of safeguard measures alleviates the pain suffered by domestic industries injured by a surge in imports (or the threat of such injury), and also provides a chance for industry to address structural adjustment. At the same time, the implementation of import restrictions also generally lowers the economic welfare of consumers and the country as a whole due to higher prices.

Below we use existing research to examine the merits and demerits of safeguard measures from an economic perspective.

(a) Merits of instigating safeguard measures

(Moderation of adjustment cost expansion)

Where domestic industry is left to suffer the consequences of a surge in imports, unemployment and business collapses not only spread rapidly throughout the industry in question, but can also impact over the short-term on peripheral industries. Simultaneously, where unemployment and business collapses leave factors of production idle, potential national production can decline, lowering the economic welfare of the country as a whole. To prevent the expansion of this social pain (adjustment costs), the government needs to make some response to the industries threatened by the import surge.

At the same time, to achieve the policy objective of protecting domestic industry and alleviating the expansion of adjustment costs, rather than adopting import restrictions which could distort consumer behavior by pushing up prices and reducing options, other domestic measures should be taken to directly resolve the problem which do not distort consumer behavior, such as production subsidies and income compensation. However, the absence of rules covering the process of consideration or the content of such domestic measures can prevent swift implementation of the necessary measures. Further, while subsidies and income compensation have the merit of not distorting the market, where these are adopted as permanent rather than temporary measures, companies and workers lose the incentive to engage in their own reform efforts, which in not necessarily effective in terms of facilitating structural
adjustment. Accordingly, in this kind of situation, the timely institution of safeguards governed by established rules to moderate import price and import volume changes can alleviate the social pain which would be likely to expand where nothing was done, and also provide management and workers with the time to address structural adjustment. This is the merit of instituting safeguard measures.

To what extent did those industries where safeguards were instigated experience an alleviation of social pain? Figure 3.2.4 indicates trends in employment, etc., in those industries related to products where the United States has imposed safeguard measures in recent years.1 Because employment levels in any given industry are affected not only by import volumes and import prices, but also by factors such as economic cycles, changes in consumer tastes and technological innovation, it is obviously difficult to identify and isolate effects due solely to import restrictions. However, Figure 3.2.4 reveals the following characteristics: (1) in all cases, the number of persons employed in that country diminishes as a trend compared to the time prior to safeguard application, while that trend does not switch to an employment increase during the period of application; (2) in the case of cotton and manmade fiber underwear and combed cotton yarn, the speed of employment decline fell during the period of application. In the case of cotton and manmade fiber skirts, the number of persons employed plunged during the period of safeguard imposition, but it cannot be concluded accordingly that the instigation of safeguards did not alleviate adjustment cost expansion, as even more jobs might have been lost if safeguard measures were not instituted.

The institution of safeguards not only reduces the pain of sunset industries, but also provides temporary protection from external shocks, and as such is an effective means of rescuing industries which are expected to regain their international competitiveness. For example, in 1983, the US imposed safeguards on heavy motorcycles, and Harley-Davidson, the only heavy motorcycle manufacturer in the United States, was able to recover its international competitiveness during the institution period through corporate efforts to boost productivity and brand power.

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1 This figure examines cases where the US instituted safeguard measures following entry into force of the WTO Agreement because of data availability, selecting those meeting the following requirements: (1) cases which were not subject to panel consultations, (2) cases where data exists for the safeguard imposition period, and (3) cases evidencing little disparity between product statistics
Figure 3.2.4 Trends in employment, etc., in industries where safeguard measures have been instituted (US)

(Maintaining and expanding trade liberalization)

Safeguard measures (or the safeguard rules mechanism) have been recognized as an essential mechanism in terms of maintaining and expanding the multilateral free trading system. In fact, the inclusion of safeguard provisions in the GATT played an important role in the US government gaining Congress approval for conclusion of the GATT.

and industry statistics.
The presence of safeguard rules is still playing an important role today as a safety valve amidst rapidly evolving globalization. The advance of globalization has provided various benefits to both consumers and companies, but has also been met with concern and opposition over the potential loss of the independence of national policy and jobs. Figure 3.2.5 indicates the results of a public opinion survey on the relation between globalization and domestic employment, revealing that the majority of the general public in Japan and many other countries believe that the advance of globalization will impact negatively on employment. Given this situation, if there were no rules on safeguards, or if safeguard measures could not be used at all, demands for protectionist policies and opposition to further trade liberalization could well strengthen, losing the additional benefits which could have been brought about by further trade liberalization.

The presence of safeguard rules as a safety valve and appropriate safeguard operation are therefore important elements in alleviating concerns over trade liberalization and maintaining
and expanding the multilateral trading system over the long term.

(b) Demerits of imposing safeguard measures (imposition costs)

As noted above, the imposition of safeguard measures temporarily alleviates social pain in the form of the business collapses and unemployment accompanying import surges, and also provides an opportunity for the structural adjustment of domestic industry. At the same time, imposing safeguards distorts the market by restricting competition in the directly targeted industry and related industries, pushing up prices and reducing options. These are the “side-effects” of safeguard measures.

Generally, the loss of consumer benefit accompanying the institution of import restrictions outweighs the total of the benefit to producers and the increase in government duties produced by the same, with the implementation of these measures resulting in a decline in economic welfare for the economy as a whole, or a smaller pie. The net loss arising from the difference between the amount of benefit lost to consumers and the amount of increase in benefit to consumers and tariff revenue is the cost which the country as a whole pays as a result of safeguard imposition.

Hufbauer and Rosen (1986) use the partial equilibrium concept to empirically examine the impact of safeguard imposition in the United States, analyzing the impact of these measures on consumer benefit, producer benefit and tariff revenue. They found that the implementation of safeguard measures reduces social welfare, and that the amount paid by domestic consumers to provide relief to one worker in the particular domestic industry concerned (for example, US$420,000 in the case of color televisions) is far greater than the amount necessary to compensate the average per capita wage of a worker (Fig. 3.2.6). In terms of the macroeconomic impact of safeguard implementation on the economy as a whole, while this varied accordingly to the nature of the particular good and the extent of protection, the price of the good rose in both cases, reducing domestic final demand and GDP in the importing country. For example, the safeguard measures implemented by the United States in regard to cotton and manmade fiber underwear imported from the Dominican Republic reduced US per capita GDP by around US$25 (Fig. 3.2.7).

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2 Where import restrictions take the form of quantitative restrictions, or where another country is requested to voluntarily restrain its exports, the profit equivalent to duty revenue goes to either the economic entity which secures the import quota (quantitative restriction) or to foreign companies (voluntary restraint of exports).
In today’s world, with companies operating on a cross-border basis, domestic industry frequently has to compete with imports from not only foreign companies, but also companies of the same nationality which are producing offshore. Imposing import restrictions in such a situation is not only an issue between states but also restricts the trade of that country’s own
companies which have moved their production bases abroad to maintain and improve their competitiveness. It should further be noted that the imposition of safeguard measures in one country also risks sparking retaliatory measures on the part of the trading partner, which may also find industries in the importing country subject to retaliatory measures.\(^3\)

(c) Conditions justifying safeguard measures

Here we consider purely in terms of economic efficiency the conditions under which the implementation of safeguard measures is justified. To do so, we need to compare changes in social welfare in cases where no government response is taken following an import surge and cases where the government institutes safeguard measures. Where safeguards are not implemented following an import surge, the cost of social adjustment in response to unemployment and corporate collapse not only in the industry immediately affected but also peripheral industries can rise further than necessary. On the other hand, where safeguards are instituted, adjustment costs do not expand as far, but the implementation costs have to be shouldered by consumers and society as a whole. The net benefit where safeguards are instituted (benefit minus cost) must be forecast to outweigh the net benefit where safeguards are not imposed to justify the institution of safeguard measures.

(3) Measures to reduce the need to implement safeguard measures

To avoid the demerits and risk of retaliation accompanying the institution of safeguard measures, it is vital to avoid as far as possible a situation in which an unforeseeable surge in imports forces safeguard imposition. The following two aspects bear consideration in this regard.

Firstly, to prevent the importing country from experiencing an unforeseeable surge in imports, producers in both exporting and importing countries need to engage in ongoing information-gathering concerning trends in domestic and offshore markets and industries. Producers in importing countries must gather information on not only market trends at home, but also the market trends, industrial structures and industrial competitiveness of exporting countries and look ahead to the future in order to maintain their industrial competitiveness at home and abroad and respond expeditiously to changes in the external environment. Producers

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\(^3\) The WTO Agreement states that where safeguard measures are taken as the result of an absolute increase in imports and are in conformance with the WTO Agreement, they can be instituted for a maximum of three years, in response to which the exporting country may not take retaliatory measures.
in exporting countries too can avoid excess investment and production, as well as the resulting crash in prices, by accurately gauging information on market trends in the countries to which they are exporting.

Secondly, the production factors of labor and capital need to be transferred smoothly from declining industries across to other areas to realize early structural adjustment. A country’s optimal industrial structure changes over time, and, conversely, for the economy as a whole to continue to grow, factors of production need to be constantly redistributed among industries, adjusting also to consumer needs and advances in technological innovation. However, in cases where the labor market is not sufficiently flexible, for example, because the appropriate labor shift does not take place, employment problems may emerge. To resolve such problems, adjustment assistance measures need to be instituted to boost employment quality and labor market flexibility as seen in the United States and Europe\(^4\). Simultaneously, continuing to produce new business areas and differentiated products and services is a key factor in maintaining the competitiveness of domestic industry. To that end, as observed in Chapter 4, swift and comprehensive steps need to be taken toward innovation creation.

2. Measures to facilitate adjustment during safeguard imposition period

(1) Potential concerns during safeguard imposition periods

(a) Risk of protectionist measures becoming institutionalized

Even where safeguard measures are taken with consideration to the various conditions noted in 1.1, to minimize the implementation costs which will be shouldered by consumers and user companies during the implementation period, a situation in which the relevant industries do not need to be protected also needs to be created as soon as possible. At the same time, research by Lapham and Ware (2001) and others indicates that import restrictions and other trade-restricting measures tend to become long-term institutions, regardless of the original intent. This is because the implementation of trade-restricting measures can create problems such as moral hazard, whereby the relevant industries lapse their self-reform efforts, or political activism launched to extend protection long-term as a means of maintaining the profit which can be gained without competing.

The same risk is constantly present in the context of safeguard measures, with the institution

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\(^4\) See Section 1 of this chapter in regard to US and European efforts to heighten labor market
of safeguards potentially lowering the incentive of companies and workers to engage in self-reform. For example, recent theoretic research by Kohler and Moore (2001) suggests that the political pressure to extend or re-introduce existing measures means that implementing safeguard measures may conversely obstruct progress with industrial structural adjustment.

Moreover, where temporary safeguards are combined with other permanent protection measures such as subsidies and other trade-restricting measures, industries and workers lose incentive to engage in maximum self-reform efforts during the instigation period, which can result in safeguard measures losing their efficacy as means of facilitating structural adjustment. For example, the US steel industry has benefited from a succession of safeguard measures since

<table>
<thead>
<tr>
<th>1959</th>
<th>US becomes a net steel importer</th>
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</thead>
<tbody>
<tr>
<td>Jan. 1969 (up to Dec. 1971)</td>
<td>Implementation of voluntary restraints on steel exports to US (by Japan and six members of the European Coal and Steel Community)</td>
</tr>
<tr>
<td>May 1972 (up to Dec. 1974)</td>
<td>Implementation of voluntary restraints on steel exports to US (by Japan, UK and six members of the European Coal and Steel Community)</td>
</tr>
<tr>
<td>June 1976 (up to Feb. 1980)</td>
<td>Import remedy measures for special steel based on Section 201 of the Trade Act</td>
</tr>
<tr>
<td>Jan. 1978 (up to Mar. 1980)</td>
<td>First trigger price mechanism (TPM) launched</td>
</tr>
<tr>
<td>Jan. 1982</td>
<td>Seven US steel manufacturers petition for antidumping measures and countervailing duties on nine imported steel materials (total of 132 cases)</td>
</tr>
<tr>
<td>Oct. 1982</td>
<td>US and EC governments reach final agreement on EC implementation of voluntary restraints on steel exports to the US</td>
</tr>
<tr>
<td>July 1983 (up to July 1987)</td>
<td>Import remedy measures for five special steels based on Section 201</td>
</tr>
<tr>
<td>Oct. 1984 (up to Sep. 1989)</td>
<td>First voluntary restraint agreement (VRA) launched for steel exports to the US (Japan, etc.)</td>
</tr>
<tr>
<td>July 1987</td>
<td>Decision to extend import quota system for three special steels (until 1989)</td>
</tr>
<tr>
<td>Oct. 1989 (up to March 1992)</td>
<td>Second voluntary restraint agreement (VRA) launched for steel exports to the US (Japan, etc.)</td>
</tr>
<tr>
<td>June 1992</td>
<td>Twelve US steel manufacturers petition for antidumping measures and countervailing duties on four steel products (total of 84 cases)</td>
</tr>
<tr>
<td>1 March 2000 (invoking)</td>
<td>Import restriction measures placed on steel wire rods and welded line pipe pursuant to Section 201</td>
</tr>
<tr>
<td>1 March 2002 (invoking)</td>
<td>Import restriction measures placed on slabs, steel plate, steel wire rods, steel pipes and stainless steel pursuant to Section 201</td>
</tr>
</tbody>
</table>

Notes:
1. Not all protective measures are covered in this table.
2. The trigger price system is based on the reasonable costs incurred by the most efficient foreign country. Under this system, where the import price falls below the established trigger price, the US Department of the Treasury automatically launches antidumping measures.
Source: METI.

Moreover, where temporary safeguards are combined with other permanent protection measures such as subsidies and other trade-restricting measures, industries and workers lose incentive to engage in maximum self-reform efforts during the instigation period, which can result in safeguard measures losing their efficacy as means of facilitating structural adjustment. For example, the US steel industry has benefited from a succession of safeguard measures since flexibility and the quality of the labor force.
the 1970s based on Section 201 of the Trade Act (Fig. 3.2.8), while the industry’s political weight has also enabled it to benefit permanently from a diverse range of border protection measures beyond safeguards. According to research by Hufbauer and Goodrich (2002), these measures include 159 cases of antidumping measures and countervailing duties, as well as the conclusion of voluntary export restraint agreements with major trading partners in regard to steel exports to the US. Barro (2002) also notes that even during the permanent implementation of protectionist measures, because the US steel industry has continued to pay its highly unionized workers wages higher than the average for the manufacturing industry, a vicious circle has been set in place whereby price competitiveness will never be restored. For example, Hufbauer and Goodrich (2002) find that wages rose 179 percent between 1972 and 1981 when stringent import restrictions were in place, despite the declining productivity of the steel industry over that time. This institutionalized protection has not raised the incentive of the US steel industry to push through immediate structural reforms, but may instead be functioning as a permanent life-support measure. Although safeguard measures and voluntary export restraints have been explained to date as necessary to provide a grace period for industrial reconstruction, these measures have been adopted time and time again, and the fact that safeguard measures were instituted for numerous products again in March 2002 bears eloquent witness to the above possibility.

It should therefore be noted that where safeguard measures are implemented as part of a permanent protection regime, their effectiveness as sunset measures encouraging self-reform efforts by industry is greatly weakened. To prevent safeguard measures from becoming a long-term institution and minimize to the greatest extent possible the implementation cost shouldered by consumers and user companies, the following kind of mechanisms need to be introduced to ensure steady progress with structural adjustment during the safeguard imposition period.

**(b) Issues requiring consideration to promote industrial structural adjustment during safeguard imposition periods**

Realizing structural reform during the safeguard imposition period means rationalizing, modernizing and differentiating industry in order to boost or restore the competitiveness of the industry to the extent needed to cope with the international competition induced by free trade, while production factors idle in the industry in question (or which could become idle) need to be absorbed by other industries to realize the optimal resource distribution in terms of sustaining the growth of the economy as a whole. Safeguard measures, on the other hand, act as a kind of
anesthetic to partially alleviate the pain accompanying the structural adjustment “operation”, but do not in themselves guarantee industrial structural adjustment. Anesthetic is only a means of facilitating an operation. To achieve industrial structural adjustment without aggravating unemployment during the safeguard imposition period requires above all self-reform efforts on the part of companies and workers, while to promote these efforts as much as possible, an appropriate combination of incentive mechanisms, direct adjustment assistance mechanisms to facilitate the shift of production factors, and measures to boost industrial competitiveness need to be introduced and implemented.

(Incentive mechanisms to encourage self-reform efforts)

An important factor in encouraging self-reform efforts by corporate management and workers to the greatest extent possible during the safeguard imposition period is the presence of an incentive for early adjustment. In that sense, the Safeguards Agreement sets clear sunsets for safeguard imposition periods and also stipulates that where measures extend beyond a year, import restrictions have to be gradually relaxed. These provisions play an important role in providing incentive to management and workers. However, as in the experience of the US steel industry, where safeguard measures are implemented together with other permanent protection measures, the effectiveness of the former as a sunset measure encouraging self-reform efforts is greatly diminished, and safeguard measures can instead become a life-support device which detracts from the improvement of competitiveness.

(Inter-industry adjustment assistance measures)

Measures to actively encourage the inter-industry shift of labor and capital as factors of production can be divided into those targeting workers and those targeting companies. Measures targeting workers include job training to enable workers to acquire new skills, assistance and mediation in job-seeking, capital assistance for relocation, and income compensation for the job training or job-seeking period. Measures targeting companies include debt guarantees in regard to working out excess equipment, and tax breaks for companies shifting their area of business. By implementing these inter-industry structural adjustment measures as a supplement during the safeguard imposition period, the social pain accompanying an import surge can be minimized even as structural adjustment is promoted.

(Measures to boost industrial competitiveness)

Measures to boost the competitiveness of an industry include R&D assistance, various types
of management guidance, preferential tax measures, and production subsidies. However, to justify the government giving preferential treatment to a certain industry and providing protection to lift the competitiveness of that industry, two requirements must be met. Firstly, even if the industry is not currently making a profit, it must have the potential to do so in future even without protection. Secondly, the future benefit to be derived from protection must be greater than the cost of protection measures. If there is no likelihood of an industry regaining its international competitiveness even in the future, rather than taking measures to boost competitiveness, opting for measures to facilitate the shift of labor and capital to those industries where they are needed would contribute more to the sustained growth of the economy.

Even where an industry is expected to boost or restore its competitiveness, unemployment can result when measures such as modernization or restructuring have to be instituted as part of the adjustment process. For example, Figure 3.2.4 shows that in all industries, while productivity improved after the institution of safeguard measures, the trend toward shrinking employment was not reversed, and the amount of employment decreased. To transfer this surplus labor smoothly to other industries, there will be cases where inter-industry adjustment assistance measures and measures to boost competitiveness need to be instituted as a supplement.

(Merits of structural adjustment assistance measures and implementation costs)

As described further on, the United States has introduced trade adjustment assistance (TAA) programs to assist inter-industry adjustment and boost industrial competitiveness as a supplement or alternative to safeguard measures. These measures provide opportunities for industries and workers affected by import surges to start again, and can in this sense help to ease concerns over trade liberalization. For example, former US President Kennedy was able to win fast-track authority from the Congress for the Kennedy round of GATT negotiations in exchange for implementing TAA.

Where a government adopts structural adjustment assistance measures which present problems in terms of efficiency and effectiveness, the cost of implementing these measures is

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5 These two standards are called the Mill-Bastable criteria, and are used to assess the legitimacy of protecting and fostering certain industries in terms of economic efficiency. Some existing research also suggests that given the minimum necessary learning period for realizing greater industrial competitiveness, the short-term and limited protection provided by short-term measures is
also likely to expand. From this perspective too, implementation of structural adjustment measures requires clarification of the type of adjustment intended, as well as the neutral selection and adoption of the most effective and efficient measures. Drawing on arguments to date, Figure 3.2.9 indicates those policy objectives which can be achieved through specific policy tools. For example, the institution of safeguard measures cannot guarantee structural adjustment where utilized as the only policy tool. Moreover, where a government opts to maintain the status quo, it becomes impossible to prevent the expansion of the social adjustment costs of unemployment and corporate collapses. Combining a variety of adjustment assistance measures with safeguard measures would seem an effective means of achieving structural adjustment with the minimum loss of jobs.

<table>
<thead>
<tr>
<th>Policy goal</th>
<th>Policy tool 1)</th>
<th>Maintaining status quo</th>
<th>Safeguards only (emergency import restrictions)</th>
<th>Safeguards + inter-industry adjustment assistance (employment adjustment assistance, etc.)</th>
<th>Safeguards + measures to boost industrial competitiveness (R&amp;D assistance, etc.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alleviation of adjustment cost expansion (Responses to unemployment, business collapses, etc. )</td>
<td>×</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimization of costs incurred through safeguard institution (Restrain and early elimination of cost shouldered by consumers through import restrictions)</td>
<td>×</td>
<td></td>
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<tr>
<td>Structural adjustment</td>
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<tr>
<td>(1) Boosting industrial competitiveness</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>(2) Facilitation of inter-industry transfer of production factors</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

Note: Circles indicate policy tools which are potentially effective in achieving the policy goals in question.
Source: METI.

(2) Other countries’ safeguard-related domestic laws and adjustment assistance measures

As noted above, the WTO Safeguards Agreement sets out various structural adjustment requirements during safeguard imposition periods, but leaves the actual means of structural adjustment to the discretion of member countries. Tools to actually realize structural adjustment and the decision-making mechanisms for selecting the necessary tools therefore need to be appropriately supplemented by the domestic institutions of WTO members. This conversely means that countries’ respective domestic institutions impact heavily on the extent of progress with structural adjustment during the safeguard imposition period, as well as the extent to which the expansion of the side-effects of safeguard measures can be prevented.

inadequate (Jacobson, 1993).
Below we overview the devices introduced into the domestic laws and regulations of the United States and South Korea, both of which have implemented safeguard measures since the WTO Safeguards Agreement entered into force, to ensure steady progress with structural adjustment during the safeguard imposition period. WTO members generally have domestic laws and regulations stipulating requirements, procedures and measures for safeguard implementation, and institute safeguards in line with these. However, these laws and regulations are not the same in all countries, with major differences in provisions concerning structural adjustment during the safeguard imposition period in particular.

(a) Structural adjustment provisions in US safeguard-related laws and regulations

The primary legislation covering safeguards in the United States is Section 201 (“Action to facilitate positive adjustment to import competition”) of the Trade Act of 1974\(^6\). Safeguard-related laws and regulations in the United States are characterized by the inclusion of implementation of import restrictions in laws and regulations aimed at positive adjustment, as well as provisions in the Trade Act for the implementation of trade adjustment assistance (TAA) programs to supplement these import restrictions. The TAA programs enable the government to provide capital and technical assistance to domestic workers, companies and industries to promote the inter-industry shift of factors of production and restore the competitiveness of companies and industries. Below, we examine the relation between the import restrictions and adjustment assistance measures stipulated in Section 201 and other related provisions.

(Status of import restrictions and structural adjustment)

As is clear from its title, the ultimate objective of Section 201 is to promote positive adjustment, and the article defines positive adjustment, as well as clarifying where the responsibility lies for achieving this. The final responsibility for deciding to rescue US industry from competition with imports and for determining or implementing measures to this end lies with the US president. In selecting measures, the president must certify that the economic and social benefits deriving from implementing the measures chosen will be greater than the social and economic costs incurred by the same.

The ”positive adjustment to import competition” stipulated by Section 201 is defined as occurring when (1) the domestic industry is able to compete successfully with imports after actions taken under this section terminate; and (2) the domestic industry experiences an orderly

\(^6\) Section 201 of the Trade Act of 1974 as amended (19 U.S.C. §§ 2251 to 2254). Section 201 was
transfer or resources to other productive pursuits and dislocated workers in the industry in question experience an orderly transition to productive pursuits. The concept of positive adjustment is therefore not necessarily restricted to maintaining industries suffering serious injury due to import surges and restoring the competitiveness of those industries, but rather also includes the transfer of workers to other industries where necessary.

Next, for the president to implement measures facilitating positive adjustment, the International Trade Commission (ITC) must undertake an investigation and determine that import surges are causing serious injury (or the threat thereof) to domestic industry. Where the ITC finds serious injury, or the threat thereof, the President selects from a range of options the most appropriate measure (or combination of measures) to facilitate positive adjustment by the industry injured by the import surge (Fig. 3.2.10). As is clear from the figure, the “most appropriate measure” is not restricted to import restrictions, but covers all appropriate measures in facilitating the positive adjustment of domestic industry.

Figure 3.2.10 Measures which can be taken by the US President for positive adjustment

(A) Tariff increase or tariff imposition
(B) Tariff-rate quota
(C) Modification or imposition of quantitative import restrictions
(D) Implementation of more than one adjustment instrument, including trade adjustment assistance
(E) Negotiation, conclusion and implementation of agreements with foreign countries limiting the export from foreign countries and the import into the United States of such article
(F) Import quotas allocated based on auction of import licenses
(G) International negotiations addressing underlying causes of increase in imports or otherwise to alleviate the injury or threat thereof
(H) Submission to Congress of legislative proposals to facilitate the efforts of the domestic industry to make a positive adjustment to import competition
(I) Any other measures which are appropriate and feasible for the purpose
(J) Combination of actions (A) to (I)

Source: Section 202 (a), US Trade Act.

Where the ITC finds serious injury (or the threat thereof), the Secretary of Labor and the Secretary of Commerce must give immediate consideration to whether workers and companies in the industry in question are eligible for the adjustment assistance which will be described later. Special note should be made of the involvement of the Secretary of Labor and the Secretary of Commerce in the consideration process regarding the imposition of safeguard apparently created based on the WTO Safeguards Agreement (Matsushita, 1999).
measures as the authorities in charge of measures promoting structural adjustment.

The United States therefore embraces within the same law import-restricting measures to alleviate the pain accompanying the increased structural adjustment pressure created by an import surge, as well as structural adjustment measures to facilitate structural adjustment when import restrictions are instituted, enabling the simultaneous consideration and determination of the most effective combination of measures in both areas. Looking at cases where the US has imposed measures under Section 201 since the inauguration of the WTO, import restrictions and TAA programs have in fact been implemented in tandem in all cases (Fig. 3.2.11).

**Figure 3.2.11 Section 201 measures instituted in the US since 1995**

<table>
<thead>
<tr>
<th>Products</th>
<th>Measures determined by the President</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Tariff hikes</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>broom (March 1996)</td>
<td></td>
</tr>
<tr>
<td>Wheat gluten (October 1997)</td>
<td></td>
</tr>
<tr>
<td>Raw fish and refrigerated or frozen lamb (Oct. 1999)</td>
<td></td>
</tr>
<tr>
<td>Steel wire rods (January 1999)</td>
<td></td>
</tr>
<tr>
<td>Welded line pipe (June 1996)</td>
<td>□</td>
</tr>
</tbody>
</table>

Note: Dates within brackets indicate when the ITC investigation was launched.
Source: Press releases from the ITC, USTR, and industrial groups.

**Securing transparency in selecting import-restricting measures and adjustment assistance measures**

When the president selects the most appropriate combination of measures in facilitating positive adjustment, a number of mechanisms come into play to ensure the transparency and neutrality of the process for determining measures.

First, there is the ITC decision-making mechanism, whereby the six members of the commission conduct an open vote in order to clarify where responsibility lies for determination of injury and recommendation of measures.

Next, ITC recommendations to the president are provided in a detailed report which is also disclosed to the public. Where more than half of ITC members find injury or the threat thereof,
the ITC makes recommendations to the President on the action that would be “most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition”. Recommendations which may be made by the ITC include import restrictions as well as TAA implementation, and address not only the type of measure but also volume and duration. The ITC determination of injury (or the threat thereof) and an explanation of the basis of the determination, as well as recommendations for action and an explanation of the basis of each recommendation, are clearly indicated in the report to the president. Also included is information obtained regarding steps that firms and workers in the domestic industry are taking, or plan to take, to facilitate positive adjustment to import competition; a description of the short- and long-term effects that implementation of the action recommended is likely to have on the petitioning domestic industry, and on consumers; and the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry are located, and on other domestic industries. The report must also be disclosed to the public. Those ITC members who agreed with the final recommendations must sign the report, as well as those who dissented, with the latter able to include their own views of the recommendations in the report.

Thirdly, the president takes into account the recommendation and report of the ITC, as well as other pertinent factors and determines and initiates the measures most appropriate in facilitating positive adjustment and supplying greater socioeconomic benefit than costs. The president must transmit a document to Congress describing the action ultimately determined and the reasons for taking the action. If the action differs from that recommended by the ITC, the president must state the reasons for the difference.

Realistically, it is probably not possible for the president to consider all these issues when determining measures. However, the prior detailed stipulation and public disclosure of the

7 The extent to which workers and firms in the domestic industry are benefiting from adjustment assistance and other manpower programs and engaged in worker retraining efforts; the efforts being made, or to be implemented, by the domestic industry to make a positive adjustment to import competition; the probable effectiveness of the actions to be authorized to facilitate positive adjustment; the short- and long-term economic and social benefits and losses which will result through the actions to be authorized; the economic and social costs which would be incurred by taxpayers, communities and workers if import relief were not provided; the effect of the implementation of actions on consumers and on competition in domestic markets for articles; the impact on US industries and firms as a result of international obligations regarding compensation; the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints; the possibility of circumvention of any action taken under Section 201; and the national security interests of the United States.
information on which the president’s decision is based facilitate evaluation and criticism by Congress and third parties in cases where the president’s decision diverges from the given criteria. In this way, an element of transparency is built into the process.

(b) US Trade Adjustment Assistance (TAA) programs

In (2) (a) we noted that the ultimate goal of import relief in the United States is to facilitate positive adjustment, and that actions open to the president include not only import-restricting measures, but also trade adjustment assistance programs which can be instituted in complement to these. Below, we overview the relevant TAA systems.

(Outline of TAA programs)

The United States operates TAA programs to assist companies and workers affected by surges in imports from other countries and to promote adaptation to a new industrial structure. TAA programs provide different types of assistance according to the target of assistance. Currently, these comprise (1) TAA programs for workers, under the jurisdiction of the Department of Labor, and (2) TAA programs for companies and industries, under the jurisdiction of the Department of Commerce. TAA programs for workers include the standard TAA program, which does not distinguish the particular countries producing the imports which are surging, and the NAFTA Transitional Adjustment Assistance program, which assists workers who have lost their jobs due to a surge in imports from NAFTA members (Mexico and Canada) or the shift of production facilities to these countries as a result of conclusion of the NAFTA agreement (Fig. 3.2.12).

Figure 3.2.12 Types of trade adjustment assistance programs in the US

<table>
<thead>
<tr>
<th>Recipient of support</th>
<th>Workers</th>
<th>Firms and industries</th>
<th>Communities (eliminated in 1981)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>Department of Labor</td>
<td>Department of Commerce</td>
<td></td>
</tr>
<tr>
<td>Number of recipients</td>
<td>Benefits: 36,108 persons Job training: 28,383 persons</td>
<td>Benefits: 1,728 persons Job training: 4,462 persons</td>
<td>139 firms</td>
</tr>
</tbody>
</table>

Note:
Figures based on real performance for FY1999. In addition to assistances to 139 individual firms, around five million dollars in support was extended to the Alaskan ocean salmon industry in 1999. The Department of the Treasury budget was used to fund these programs, paid through the Department of Commerce.

Source: USTR (2001), etc.
The need for programs for workers losing jobs as a result of trade liberalization began to be noted in the United States as of the mid-1950s. As a result, various bills were submitted to Congress between 1954 and 1960 for the relief of workers and companies, and eventually a TAA program was included in the 1962 Trade Expansion Act in return for Congress granting fast-track authority to President Kennedy for the Kennedy round of GATT negotiations. However, the extremely rigorous eligibility criteria of the program meant that no assistance was granted up until 1969. Subsequently, growing calls for relaxation of the requirements for receiving TAA program assistance and a shift to a system prioritizing adjustment assistance over the institution of import restrictions were reflected in the Trade Act of 1974. The Trade Act is the authority for the TAA Programs, and provides greatly relaxed eligibility criteria compared to the 1962 Trade Expansion Act (Fig. 3.2.13).

Figure 3.2.13 Relaxation of TAA program requirements pursuant to 1974 Trade Act

<table>
<thead>
<tr>
<th>Requirements under 1962 Trade Expansion Act</th>
<th>Relaxation of these under 1974 Trade Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Increase in imports of like product or a directly competitive product.</td>
<td>Combined with 3).</td>
</tr>
<tr>
<td>b) Trade agreement concessions must be the main cause of the import surge.</td>
<td>Eliminated.</td>
</tr>
<tr>
<td>c) Substantial injury, or threat thereof, to companies.</td>
<td>1) Loss of jobs for multiple workers, breakup of companies (or parts of companies), or the threat thereof. 2) Absolute decrease in company sales or productivity</td>
</tr>
<tr>
<td>d) Import surge must be the main cause of injury (or unemployment)</td>
<td>3) Import surge of like product or directly competitive product is sufficient to be a “substantial cause” of job losses, business breakups, or decreased sales and productivity</td>
</tr>
</tbody>
</table>


As a result of the relaxation of requirements, the number of workers and companies receiving assistance under the TAA programs has increased since 1975, which has naturally also significantly boosted the costs of program implementation. For example, according to Jackson (1992), program costs in relation to those programs for workers alone peaked in 1980, when US$1.6 billion was spent on 530,000 workers8.

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8 Since 1975, trade adjustment assistance has been extended to workers in the leather, footwear, textiles and apparel industries. The budget for worker-oriented TAA programs started out at US$71 million in 1975, but grew to US$256 million in 1979. In 1980, when the ITC decided not to instigate safeguard measures in regard to the automobile industry, that industry was directed to engage in
Responding to this budget blowout, the Omnibus Budget Reconciliation Act of 1981 stipulated reduction of the total TAA program budget, and changed the focus from worker allowances (trade adjustment allowances) to job training, mediation in job-changing and other programs facilitating structural adjustment. The Omnibus Trade and Competitiveness Act of 1988 also made the receipt of allowances conditional on participation in job training programs. Since the Reagan administration and its pursuit of small government, the welfare policy aspect in TAA programs has gradually been pared back to instead emphasize policies to strengthen competitiveness and promote structural adjustment.

TAA programs therefore contain three elements: structural adjustment policies (assistance for re-employment and job-shifting, etc.), welfare policies (income compensation), and a government tool in negotiations with Congress on further trade liberalization. However, of the functions which the TAA programs can fulfill, the particular element which is stressed varies greatly according to the response of the administration of the time and the economic situation.

(Outline of TAA programs for workers)

There are three main TAA programs for workers, namely (1) trade readjustment allowances (TRA); (2) job-training; and (3) allowances for job-hunting and relocation (because of a job change).

Workers who have been laid off because of import surges (groups of at least three workers or labor unions) must apply to the Employment and Training Administration within the Department of Labor in order to be certified as eligible for trade adjustment assistance and accordingly receive trade adjustment allowances, training and other assistance (see Fig. 3.2.13 concerning eligibility standards). Next, even where a worker is certified as eligible for a TAA program, he or she must meet certain standards in order to receive a trade readjustment allowance—for example, having worked for at least a year continuously before the time when an import surge caused the layoff crisis, and having received a weekly wage of at least US$30 for six months or more, or having completed or being currently enrolled in a job training positive adjustment, and many automobile industry workers became TAA recipients, which is why the TAA budget peaked in that year.

Moreover, between 1975 and 1996, around two million workers from the auto parts (800,000), apparel and textiles (460,000) and metals (220,000) industries became eligible for the programs, with two out of every three of these workers likely to have their applications approved (Bhala and Kennedy, 1998).
program. After application, a certificate of eligibility is issued by the Department of Labor, and where workers meet the requirements for receiving a TRA, payments are made to individual workers through the state government and training services, with various types of information extended. A worker cannot receive an unemployment benefit and a TRA simultaneously. TRAs are paid at the same level as unemployment insurance and as an extension of this for a maximum of 52 weeks where disbursed together with unemployment insurance, plus an additional 26 weeks where the worker participates in a job training program.

The US Department of Labor also discloses the results of considerations of TAA applications received from companies for workers on its website (Fig. 3.2.14). For example, the February 2002 results indicate a total of 187 TAA cases (115 TAA cases and 72 NAFTA-TAA cases), of which applications were received for 123 (77 TAA, 46 NAFTA-TAA), or around 70 percent.

Figure 3.2.14 Examples of content of letters from Training Department (Department of Labor) to applicants

<table>
<thead>
<tr>
<th>Applicant company</th>
<th>Time of</th>
<th>Conclusion</th>
<th>Grounds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company A (Illinois)</td>
<td>Sept. 2001</td>
<td>Dismissed 12 Dec. 2001</td>
<td>The international communications solutions division in Company A in which the applicant worked was found not to have been directly affected by imports.</td>
</tr>
<tr>
<td>Company B (Pennsylvania)</td>
<td>Sept. 2001</td>
<td>Dismissed 26 Dec. 2001</td>
<td>The salad dressing manufacturing division in Company B in which the applicant worked was found not to have been directly affected by imports.</td>
</tr>
<tr>
<td>Company C (Kentucky)</td>
<td>Nov. 2001</td>
<td>Approved 11 Dec. 2001</td>
<td>The children’s toy manufacturing division of Company C in which the applicant worked produced like products or products in direct competition with imports, with the January-October 2001 surge in imports of the products in question recognized, resulting in layoffs and dismissals.</td>
</tr>
<tr>
<td>Company D (Georgia)</td>
<td>Sept. 2001</td>
<td>Approved 20 Dec. 2001</td>
<td>The deteriorating employment situation and steep drop in sales in Company D in which the applicant worked was found to be the result of a surge in imports of like products to the bedding comprising Company D’s main product, or of products in direct competition.</td>
</tr>
</tbody>
</table>

Source: US Department of Labor website.

(Outline of TAA programs for companies and industries)

Under the 1974 Trade Act, the TAA programs operated by the Economic Development
Administration for companies and industries allowed (1) direct financing for companies; (2) loan guarantees; and (3) technical assistance. However, the Reagan administration scrapped the first two in 1986. Like TAAs for workers, not all companies injured by import surges are immediately eligible for TAAs. Rather, assistance is provided only to those companies whose adjustment plans have passed inspection.

For companies to receive TAA program assistance, they must first submit an application to the Department of Commerce and be certified as eligible for assistance (see Fig. 3.2.13 regarding eligibility criteria). Certified companies next create adjustment plans which must be approved by the Adjustment Proposal Review Committee established within the Department of Labor. These adjustment proposals are considered in regard to whether the company is aware of its strengths and weaknesses has a clear and rational strategy for recovery from the import impact. Companies can receive corporate diagnosis and counseling in preparation of their proposals from one of the 12 Trade Adjustment Assistance Centers (TAAC) set up around the country. Companies whose adjustment proposals have been approved by the APRC receive technical assistance through TAACs to implement their reconstruction strategies.

Technical assistance is provided by consultants chosen by firms in agreement with a TAAC (consulting firms, industrial groups, banks, etc.). Usually TAAC shoulders half of the consulting fee, the remainder of which is paid by the company receiving assistance. Specific content of technical assistance ranges from production management to quality guarantees, management, export development, marketing, finance, and information technology, with the budget for each project set at a maximum of US$150,000.

In the case of adjustment assistance at industrial level, the ceiling for assistance is US$10 million, which is provided to achieve the goals of new product and production system development, export promotion and higher productivity.  

(c) Structural adjustment provisions in South Korean safeguard-related laws and regulations

South Korea’s main law covering safeguard measures is the Act on the Investigation of  

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10 Around US$4.4 million was injected into industry-oriented TAA between 1978 and 1996 (Bhala and Kennedy, 1998).
11 Our survey of the South Korean safeguard system was conducted with the cooperation of and guidance from Professor of the School of International Social Science, Yokohama University.
Unfair International Trade Practices and Remedy Against Injury to Industry (below, Trade Remedy Act), which entered into force on 4 May 2001. This law not only covers general safeguards, but also contains provisions on textile and services safeguards.

Like the United States, South Korea combines safeguard investigations, instigation requirements and the content of measures in the single law, and recommendations to the head of the central government agency overseeing the domestic industry which are made by the Korean Trade Commission (KTC) as the body responsible for injury investigations include not only import-restricting measures but also measures to facilitate structural adjustment. Further, where the KTC selects tariff adjustment as the appropriate remedy, implementation must be recommended to the Minister of Finance and Economy, while in the case of quantitative import restrictions or structural adjustment, implementation must be recommended to the head of the central government agency overseeing the domestic industry.

(Status of import restrictions and structural adjustment)

In the case of the US Trade Act, the final criteria for the president in determining measures are whether the measures will contribute to positive adjustment, and whether the socioeconomic benefits produced will outweigh the socioeconomic costs. In Korea, the key question is whether the measures will prevent or relieve serious injury to domestic industry, while measures must be within the scope necessary to facilitate the adjustment of domestic industry. These are much the same standards as in the WTO Safeguards Agreement. There is no separate provision which defines the term “structural adjustment” as used in the law, but as explained below, the scope includes both boosting the competitiveness of domestic industry and promoting industrial transformation, as in the United States.

Where the KTC finds injury or the threat thereof from an import surge, it can recommend to the head of the central government agency overseeing the domestic industry tariff adjustment, quantitative import restrictions, or other measures determined by Presidential Decree purposed to remedy injury to domestic industry or facilitate structural adjustment. Measures to facilitate structural adjustment include those fiscal and tax measures which can be taken to increase the competitiveness of domestic industry or facilitate industrial transformation, re-education and re-training of workers employed in domestic industries, and assistance for technology development by domestic industry.

However, some import-restricting measures, namely provisions on the implementation of
(Implementation provisions for structural adjustment assistance measures)

In the United States, rules concerning the content and implementation of TAA programs are stipulated in Section 201 and elsewhere in the Trade Act. In Korea, provisions for the implementation of structural adjustment measures are not included in the Trade Remedy Act. Instead, assistance is provided within the frameworks of general institutions operated by central government agencies in charge of specific industries. When safeguards were imposed in June 2000 on garlic imports, Korea levied emergency tariffs and instituted structural adjustment assistance policies, with a package of measures designed and assistance implemented to facilitate the structural adjustment of the garlic industry within the systemic framework of the Ministry of Agriculture and Forestry, which is in charge of that industry\textsuperscript{13}.

When an industry receiving injury petitions for safeguard measures, the industrial investigation application which has to be simultaneously filed with the KTC must include the current international competitiveness of the product in question (technical standards, etc.), as well as future prospects; efforts being taken to sustain and boost competitiveness and future plans; the type and extent of assistance being received by the industry in question under the provisions of related laws and regulations; the specific content of each relief measure; and the impact of relief measures on the competitiveness of domestic industry. In that sense, industry petitions for safeguards go beyond simple demands for protection, providing an opportunity to review the state of international competitiveness and build that industry’s own ideas into a strategy for resolving the problems with which it is faced.

(3) Measures to facilitate adjustment during safeguard imposition periods (summary)

Subsection (1) identified key points in avoiding the various problems which arise when a government is forced to institute safeguard measures. In other words, (1) when safeguard measures are introduced, to minimize to the greatest extent possible the costs of instigation borne by consumers and user companies, structural adjustment needs to be pursued while preventing safeguard measures from becoming long-term institutions. (2) At the same time, safeguard measures do not in themselves guarantee the realization of structural adjustment, and particularly when combined with other permanent protection measures, lose their effectiveness as a sunset measure designed to promote self-reform efforts. Further, (3) to realize structural emergency duties, are included in the Tariff Law.

\textsuperscript{13} Garlic has been the only case to date where import restrictions have been combined with structural adjustment assistance under the Trade Remedy Act.
adjustment during the period of safeguard instigation, the following measures need to be appropriately instituted in tandem with safeguard measures: (a) incentives to encourage self-help efforts by companies and workers, (b) inter-industry adjustment assistance, and (c) measures to boost industrial competitiveness. Finally, (4) when implementing the various types of assistance, the intended type of adjustment needs to be clarified and the most efficient and effective assistance measures adopted in order to minimize the cost of implementation.

Subsection (2) outlined instruments for realizing structural adjustment during the safeguard imposition period, as well as systems in the United States and Korea which provide for the decision-making mechanisms when selecting those instruments. Features of safeguard-related domestic laws and regulations in the two countries were (1) clear definition of the scope of the “adjustment” sought during safeguard imposition; (2) a single institution simultaneously addressing (a) determination of and recommendations on the pros and cons of instituting safeguard measures and the content of these and (b) considerations and recommendations on supplementary or alternative adjustment assistance to be provided to realize structural adjustment (in other words, the content of the “operation” which needs to be undertaken is considered together with the need for an “anesthetic”); and (3) the party ultimately responsible for the final decision on the pros and cons of launching safeguard measures and the content of these also has the final decision on the need for adjustment assistance measures and the content of these.

The United States has created a set of rules covering the eligibility requirements, investigation process and content of assistance in regard to the implementation of TAA programs assisting workers and companies which have been injured by an import surge. The presence of rules on the means of implementation sends a clear message to those being assisted that no assistance can be expected beyond the scale and for the duration determined by those rules, providing an incentive to engage in industrial structural adjustment during the safeguard instigation period.

The United States also has some mechanisms for restricting the provision of assistance to those entities which have made a commitment to realizing structural adjustment. For example, (1) assistance to companies and industries is determined according to adjustment proposals formed not by government but by companies and industries themselves, while (2) the government does not cover the total project cost of management reorganization, but has the
company in question shoulder part of the cost; and (3) in terms of assistance to workers, allowances are paid on the condition that workers undergo training. These systemic innovations would seem effective in providing injured parties with the incentive to undertake adjustment.

However, as noted in (1), the instigation of safeguard measures carries many demerits and risks, and it is important to avoid to the greatest extent possible the kind of situation in which safeguard measures have to be instituted in response to an unforeseeable surge in imports. To that end, rather than relying excessively on safeguard measures, the importance should be recalled of implementing a comprehensive approach to structural adjustment, such as the employment adjustment assistance described earlier and the measures to promote innovation which will be described in the next chapter.