▣ 논단

Safeguard Measures and Legal Fragmentation in Egypt:

A Case Study of the Steel Sector

한국어외대 법학전문대학원 교수 세리프 헤이칼

*논문접수 : 2025. 7. 20. *심사개시 : 2025. 7. 21. *게재확정 : 2025. 8. 6.

〈Table of Contents〉

Ⅰ. Introduction

Safeguard measures, as recognized under the World Trade Organization (WTO) Agreement on Safeguards, are grounded in strict legal criteria but also require policy decisions that are often shaped by political- economic constraints. This hybrid character means that, even where legal requirements are met, the adoption, continuation, or termination of safeguard actions may be influenced by broader economic priorities and external pressures.

This paper examines Egypt's safeguard regime through the lens of both Domestic

Implementation Theory and Legal Fragmentation Theory. This paper contends that Egypt's struggles to deliver stable and legally predictable safeguard outcomes stem less from any absence of legal authority and more from two interconnected features of its domestic system: (1) ambiguities in Law No. 161 of 1998 (and its Executive Regulations) when compared with the WTO Safeguards Agreement, along with certain procedural and substantive gaps between the two frameworks, and (2) overlapping judicial powers between the State Council (administrative judiciary) and the Economic Courts, which open the door to parallel challenges, interim suspensions, and conflicting appellate paths.

This paper acknowledges the legitimate role of judicial oversight, but finds that in Egypt's case, safeguard enforcement operates within a fragmented institutional landscape where the State Council, economic courts, and the executive often act without procedural harmonization. The result is a cycle of legal and institutional interventions that weaken the stability of trade remedies.

In addressing this issue, this paper contributes to three strands of debate in trade law and governance:

1. How developing countries operationalize WTO safeguard obligations within domestic legal systems marked by overlapping judicial and administrative competences.

2. The extent to which domestic safeguard laws align—textually and procedurally—with WTO rules, and where gaps or ambiguities persist.

3. The structural reforms and practical considerations necessary to enhance legal certainty in the application of safeguard measures, particularly in jurisdictions facing political-economic and institutional constraints.

By combining doctrinal comparison with case studies—especially in the steel sector—this paper offers both a legal and institutional analysis of Egypt's safeguard system from 1995 to 2025, identifying lessons relevant to other developing countries with similar challenges.

Ⅱ. Theoretical Foundations: Domestic Implementation and Fragmentation of Legal Authority

This study draws upon two interrelated strands of scholarship—Domestic Implementation Theory and Legal Fragmentation Theory—to examine the challenges faced by Egypt in implementing safeguard measures in compliance with international trade obligations. The integration of these frameworks allows for an analysis that is both doctrinal, focusing on the textual and procedural alignment with WTO obligations, and institutional, highlighting the multiplicity of domestic actors and overlapping jurisdictions.

Domestic Implementation, Theory provides a more nuanced conceptual framework for assessing how states internalize and operationalize their international legal obligations within their domestic legal orders.[1] Trachtman has underscored, in his analysis of international economic law, the need for coordinated legislative action, effective administrative execution, and engaged judicial review as essential pillars for meaningful compliance.[2] Slaughter's work on transgovernmental relations further explains how domestic regulators and judges form cross-border networks that facilitate mutual learning and enforcement of international commitments.[3] Raustiala similarly points out that compliance effectiveness depends not merely on formal incorporation of international rules, but also on their deep embedding within domestic institutional practices.[4] Taken together, these perspectives frame Domestic Implementation Theory as an ex-

1) The roots of Domestic Implementation Theory can be traced to post-World War II developments in international law, when treaties increasingly regulated areas traditionally governed by domestic law. This shift is discussed in works such as Rosalyn Higgins, *The Development of International Law through the Political Organs of the United Nations* (Oxford: Clarendon Press, 1963), which examines how treaty obligations began to penetrate domestic legal spheres. Early scholarship, influenced by dualism/monism debates—see, e.g., Hersch Lauterpacht, *International Law and Human Rights*(London: Stevens, 1950)—considered whether international law required legislative transformation to take effect domestically. In the 1990s, scholars like Joel P. Trachtman, Anne-Marie Slaughter, and Kal Raustiala further contributed by emphasizing that mere textual incorporation of treaties was insufficient without embedding them in domestic institutional practice. See notes 2, 3, and 4 *infra.*

2) Joel P. Trachtman, "The International Economic Law Revolution," *University of Pennsylvania Journal of International Economic Law* 17 (1996): 33–61.

3) Anne-Marie Slaughter, *A New World Order* (Princeton, NJ: Princeton University Press, 2004).

4) Kal Raustiala, "Compliance and Effectiveness in International Regulatory Cooperation," *Case Western Reserve*

amination of the interlocking processes of legislative incorporation, administrative execution, and judicial oversight, with a focus on institutional architecture, normative hierarchies, and procedural safeguards necessary for effective domestic enforcement of international obligations. Hence, this theory explored how these dimensions interact to shape compliance outcomes, noting that variations in constitutional structure, political will, and administrative capacity can significantly alter implementation trajectories.[5] At its core, the theory emphasizes:

1. Legislative Incorporation, how parliaments or legislative bodies adopt international rules into domestic statutes.
2. Administrative Execution, the role of agencies in enforcing international obligations.
3. Judicial Oversight, Courts' role in interpreting and applying these obligations.

Within the context of safeguard measures, the theory predicts that successful domestic implementation depends on the coherence between the international obligations (e.g., the WTO Agreement on Safeguards) and national legislative and institutional frameworks. Where alignment is lacking, enforcement becomes inconsistent, potentially leading to disputes both domestically and internationally.

In Egypt's case, while Law No. 161 of 1998 ostensibly incorporates WTO safeguard provisions, the implementation suffers from fragmentation in enforcement authorities and a lack of procedural clarity.[6] This is visible in the dual role of the Ministry of Trade and Industry and the investigating authority, alongside judicial oversight by both administrative and economic courts.

Regarding, the Legal Fragmentation Theory, which gained prominence in the early 2000s, particularly after the International Law Commission's Study Group on Fragmentation (2002–2006) investigated the risks posed by the increasing specialization of international law. [7] The Legal

Journal of International Law 32 (2000): 387–440.

5) See, Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42, no. 3 (1988): 427–60; Harold Hongju Koh, "Why Transnational Law Matters," *Penn State International Law Review* 24, no. 4 (2006): 745–63.

6) Law No. 161 of 1998 will be discussed in section III.

Fragmentation Theory as explored in depth by Martti Koskenniemi, Jan Klabbers, and William Burke-White, examines the consequences of the proliferation of legal norms and institutions operating in overlapping or conflicting jurisdictions. Koskenniemi identifies fragmentation as the emergence of specialized and relatively autonomous spheres of social action and structure within international law, raising questions about system-wide coherence.[8] Klabbers warns that such fragmentation can undermine the relative autonomy and unity of international law by creating competing normative orders.[9] Burke-White observes that legal pluralism, while potentially fostering flexibility, can also generate uncertainty and encourage strategic forum shopping among actors.[10] Fragmentation may occur across:

- Substantive Rules, different norms applying to the same factual situation (e.g., WTO safeguard rules vs. domestic trade protection measures).
- Institutional Mandates, multiple authorities empowered to regulate or adjudicate on the same matter.
- Procedural Requirements, differing timelines, evidentiary standards, or procedural steps.

In the safeguard context, legal fragmentation manifests in Egypt through:

- Overlapping jurisdiction between administrative and economic courts.
- Divergent interpretations of WTO obligations by different domestic institutions.
- Conflicting timelines and procedural requirements for imposing and reviewing safeguard measures.

---

7) See Martti Koskenniemi and Päivi Leino, "Fragmentation of International Law?" *Leiden Journal of International Law* 15 (2002): 553-79; International Law Commission, "Report of the Study Group of the International Law Commission on the Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law," finalized by Martti Koskenniemi, UN Doc. A/CN.4/L.682 (2006).

8) Martti Koskenniemi and Päivi Leino, "Fragmentation of International Law?" *Leiden Journal of International Law* 15 (2002): 553-79.

9) Jan Klabbers, "The Relative Autonomy of International Law: The Forgotten Politics of Interdisciplinarity," *Journal of International Law and International Relations* 1 (2005): 35-50.

10) William W. Burke-White, "International Legal Pluralism," *Michigan Journal of International Law 25* (2004): 963-79.

This fragmentation leads to uncertainty for both domestic industries seeking protection and foreign exporters challenging safeguard actions. In turn, it undermines Egypt's compliance with its WTO commitments and risks exposure to dispute settlement proceedings.

The interplay between Domestic Implementation Theory and Legal Fragmentation Theory provides a nuanced lens for analyzing Egypt's safeguard regime:

- From the implementation perspective, clear legislative alignment and institutional coordination are essential for effective safeguard enforcement.
- From the fragmentation perspective, overlapping jurisdictions and inconsistent procedural rules erode the predictability and legality of safeguard measures.

Thus, the central argument of this paper is that Egypt's safeguard system suffers not from a lack of legal authority to act, but from the institutional incoherence that results when domestic implementation is attempted within a fragmented legal environment.

By applying these theories to the Egyptian case, this study contributes to two broader debates in international economic law:

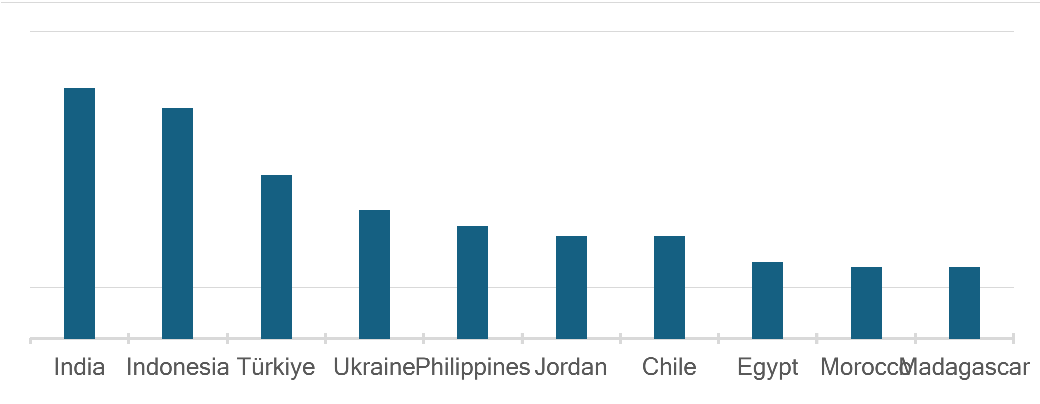
1. How WTO rules are domestically operationalized in legal systems with multiple, and sometimes competing, judicial and administrative bodies (or different types of judicial bodies such as in Egypt case, i.e., Economic Courts and Administrative Judicial Bodies).
2. How legal fragmentation, often discussed in abstract terms, concretely affects trade remedy regimes in developing countries.

This dual-theoretical approach not only explains the persistence of procedural and substantive conflicts in Egypt's safeguard regime but also provides a framework for comparative analysis with other jurisdictions facing similar challenges.

Ⅲ. Empirical Evidence – Egypt's Safeguard Practices before the WTO (1998-2025)

Egypt's engagement with safeguard measures under the WTO framework between 1995 and 2025 reveals a fragmented and reactive approach shaped by institutional constraints, inconsistent legal interpretation, and policy discontinuity. Drawing on systematically compiled data from WTO records pertaining to Egypt's safeguard activity, this section analyzes the procedural trajectory and substantive outcomes of safeguard applications over a 29-year period. The focus lies not merely on the frequency of measures, but on their outcomes, recurrence, and institutional implications within Egypt's contested legal environment.[11)]

Figure 1: Top 10 Countries Initiated Safeguard (1-1-1995~12-31-2024).



Source: Author's compilation based on WTO safeguard data, (1-1-1995~12-31-2024).

The figure number 1 shows that Egypt has been active in initiating safeguard investigations, i.e., it is top 10 initiators of safeguard measures, with 15 cases representing 3.4% of the world total number of safeguard initiations.

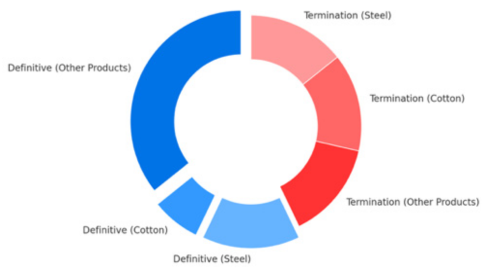
11) Author's compilation based on official documents retrieved from the WTO Safeguards Portal, covering Egypt's safeguard-related measures (1995-2025). See World Trade Organization, "Safeguards Gateway," WTO Official Documents Database, https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(+%40Symbol%3d+g%2fsg%2fn%2f*+and+egy)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true

The data identifies numerous instances in which Egypt's safeguard procedures were initiated, reviewed, or abandoned at various stages. Specifically:

- 15 cases proceeded to formal investigation phases, marking the official commencement of safeguard inquiries.
- 7 cases involved the application of provisional measures, often invoked in response to urgent pressures—particularly in politically sensitive sectors such as steel and cotton textiles.
- Only 8 cases culminated in definitive safeguard measures, including repeat entries for steel, which was subject to final measures in both 2001 and 2019.
- 6 cases were terminated after provisional action, without progressing to any conclusive remedy.
- A smaller number involved procedural clarifications or corrigenda but did not result in final action.[12)]

These outcomes are presented in the circular figure below number 2, which bifurcates Egypt's safeguard trajectory into two key categories: (1) terminations following provisional action, and (2) implementation of definitive measures. Crucially, each segment includes repeated product entries, with steel and cotton appearing in both, demonstrating the chronic regulatory inconsistency and policy discontinuity.

Figure 2: Comparative visualization of terminated vs. definitive safeguard measures, with repeated products indicated in each segment. (1-1-1995~7-1-2025)



12) Ibid.

Source: Author's compilation based on WTO safeguard data, 1995~2025.

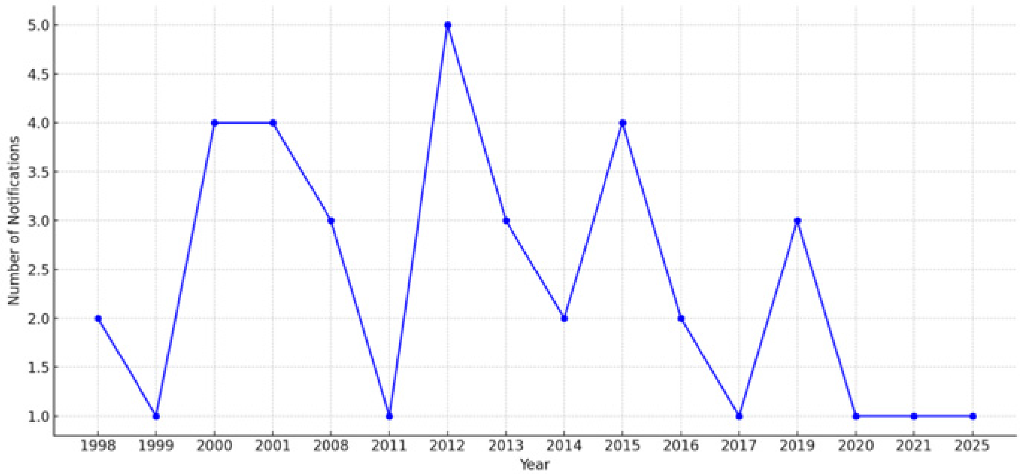
On the termination side, we observe a total of six cases, among which steel and cotton reappear—indicating repeated failures to translate provisional protection into definitive remedies. This reflects the inherent instability of Egypt's safeguard regime, where initial investigations and emergency measures are frequently abandoned before achieving definitive measures. The repeated abandonment of safeguard proceedings, especially after the issuance of provisional measures, suggests significant institutional pressure—particularly from judicial challenges initiated by importers and rival economic actors.

In contrast, the definitive measures segment comprises eight cases, including two repeated entries for steel. This highlights not only the strategic importance of the steel sector in Egypt's industrial policy but also the persistent structural injuries that necessitated repeated intervention. Nonetheless, even among these definitive measures, the recurrence of the same products over different years suggests that prior remedies were either insufficiently calibrated or poorly enforced. The limited number of final outcomes, despite repeated filings, reinforces the view that safeguard instruments are used episodically and are often shaped more by short-term political imperatives than by consistent regulatory application.

The juxtaposition of these two outcomes in this figure (number 2) reinforces the article's broader thesis: Egypt's safeguard regime suffers from legal fragmentation, jurisdictional overlap, and institutional discord, making it highly reactive but rarely conclusive. The recurrent appearance of core industrial products across both terminated and finalized cases points to a deeper governance issue—where the state's trade remedy mechanisms operate within a contested and often adversarial domestic legal environment.

This pattern becomes more visible when examined chronologically. Egypt's safeguard actions cluster into four distinct waves, as shown in the timeline chart below:

Figure 3: Timeline highlighting four waves of safeguard action, correlated with legal-institutional trends. (1-1-1995~7-1-2025)



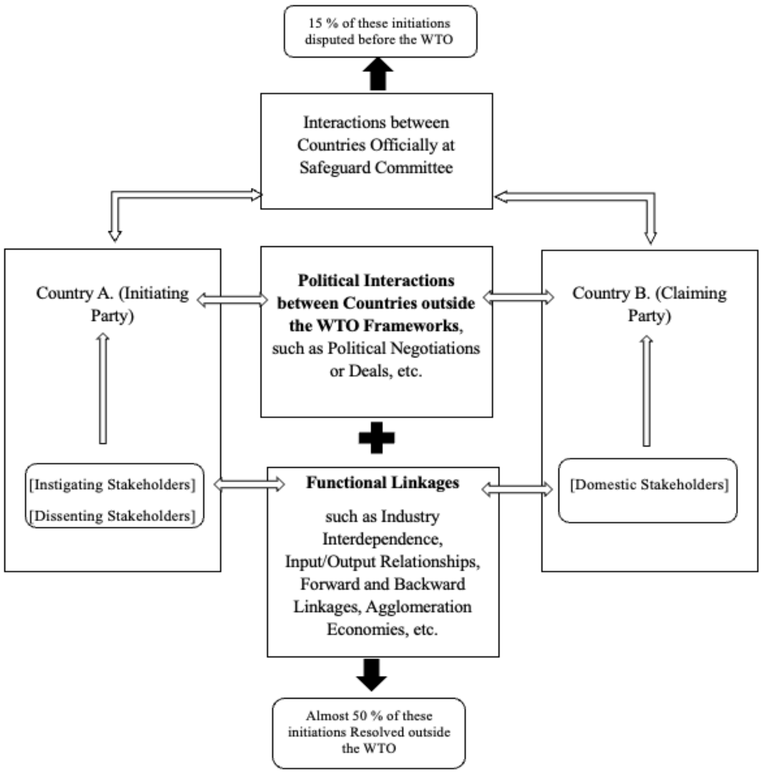
Source: Author’s compilation based on WTO safeguard data, (1-1-1995~7-1-2025).

1. 1998–2001: Early adoption period following the passage of Law 161/1998. Measures focused on household goods (e.g., safety matches, fluorescent lamps).
2. 2008–2012: A reactivation period following amendments to safeguard regulations; concentrated on textiles, sugar, and batteries.
3. 2014–2017: A phase of institutional instability marked by multiple steel-related measures and rising importer litigation.
4. 2019–2025: Contemporary usage focused on aluminum and steel, reflecting renewed industrial policy goals amid ongoing WTO compliance challenges.

This timeline also reflects increasing judicial entanglement and legal fragmentation. The spike in provisional measures and short-lived remedies correlates with the period when Egyptian courts, especially administrative divisions, began scrutinizing executive trade remedy actions more closely.[13]

13) This article elaborates on the judicial entanglement and legal fragmentation surrounding the application of

Figure 4:Interactional and Structural Dynamics in the Resolution of Safeguard Measures



Source: Diagram created by the author.

This diagram demonstrates how countries interact with each other through structural and interactional mechanisms to resolve safeguard measures. The safeguard measure process starts with Country A as the initiating party which faces internal instigating and dissenting stakeholders while Country B as the claiming party operates under its domestic stakeholders. The safeguard measure initiation leads to two primary communication channels which include formal WTO Safeguard Committee interactions and unofficial political contacts between the involved countries. The safeguard issue development depends on functional linkages including industry interdependence and supply chain relationships and economic agglo- meration. The safeguard is-

safeguard measures in Egypt in the following section.

sue follows two possible paths depending on structural and relational factors which determine whether it goes to formal dispute or intergovernmental coordination. The data shows that safeguard initiations result in WTO dispute settlement in only 15% of cases,[14] yet safeguard initiations resolve in half of the cases without needing formal adjudication.[15] WTO data on safeguard activity indicates that between 1 January 1995 and 31 December 2024, a total of 441 safeguard measures were initiated, of which 220 resulted in definitive measures.[16]

3.1 Distinctive Patterns and Judicial Complexities in Egypt's Safeguard Governance

The safeguard governance pattern observed globally does not directly apply to Egypt, as its safeguard measures have never been the subject of formal dispute settlement proceedings at the WTO. Egypt's safeguard actions remain outside the roughly 15% of global safeguard cases that have been triggered by disputes, precisely because they have never been challenged in Geneva. Furthermore, a review of Egypt's safeguard investigations reveals no evidence of political negotiations or diplomatic settlements with affected trading partners—indeed, 100% of terminated investigations concluded without definitive measures being imposed.

This distinct pattern is further underscored by Egypt's unusually high incidence of provisional measures and subsequent terminations, often followed by repeated filings in core industrial sectors such as steel and cotton. Such a trajectory—when visualized in a circle chart—suggests sys-

14) Based on data available from the WTO, approximately 15% of all safeguard measures have been subject to formal dispute settlement proceedings, with 62 safeguard-related disputes recorded out of a total of 441 initiated safeguard measures as of 2024. See World Trade Organization, Dispute Settlement - Index of Disputes by Agreement, https://www.wto.org/english/tratop_e/dispu_e/dispu_agreements_index_e.htm.

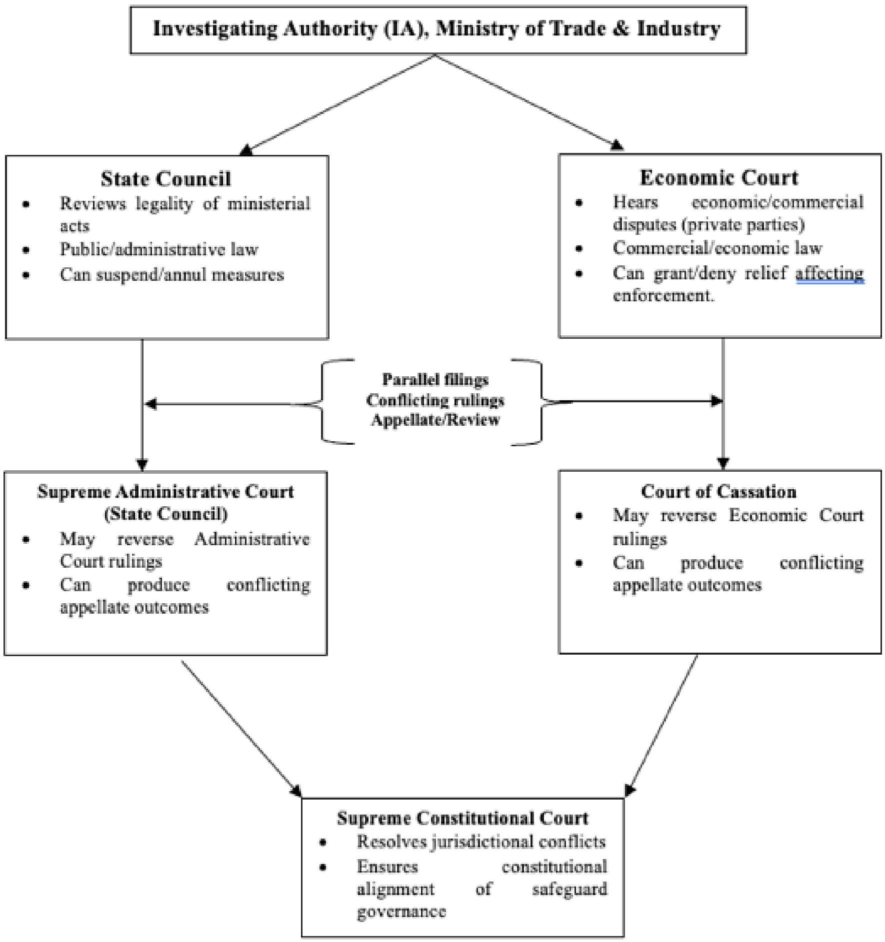
15) See, Bernard M. Hoekman and Petros C. Mavroidis, The World Trade Organization: Law, Economics, and Politics, 2nd ed. (London: Routledge, 2016), 133-135. The authors note that most disputes under the WTO system are resolved outside formal adjudication, typically through bilateral consultations or informal settlements. This includes safeguard measures, where member states often choose to adjust, withdraw, or settle actions through negotiation rather than initiate or endure a full panel process, reflecting the pragmatic and political nature of trade remedies.

16) See World Trade Organization, *Statistics on Safeguard Measures,* accessed June 12, 2025, https://www.wto.org/english/tratop_e/dispu_e/dispu_agreements_index_e.htm.

temic difficulties in designing remedies that are fully WTO-compatible.

What makes Egypt's case particularly unique is the structural complexity of its domestic adjudication model. Safeguard measures fall under the jurisdiction not only of the Administrative Court but also, in certain circumstances, the Economic Court, i.e., a significant institutional change came with the passing of Law No. 120 of 2008, which created the Economic Courts and marked a major shift in how international trade defense instruments related disputes (safeguard, antidumping, and countervailing measures related disputes) are handled judicially.[17] Before this law, the Council of State—had sole authority over such disputes. The introduction of the

Figure 5: Dual-Court Judicial Complexities in Egypt's Safeguard Governance



17) Law No. 120 of 2008 on the Establishment of Economic Courts (Egypt), Official Gazette No. 21 bis.

Economic Courts divided this jurisdiction: these new courts took on disputes dealing with the commercial and private-party, while administrative courts continued to oversee cases involving state regulation and enforcement. This division was made even clearer by a 2024 amendment (Law No. 156/2024), which added Article 3 bis to confirm that Economic Courts handle international trade defense instruments related disputes, provided they do not directly challenge executive decisions.[18)]

This dual-court jurisdictional arrangement introduces additional procedural layers and conflicting interpretations, thereby complicating the enforcement and review of safeguard actions. The interplay between administrative law principles and commercial/economic adjudication standards creates an environment where navigating WTO-aligned safeguard remedies becomes especially challenging.

Source: Diagram created by the author.

The above diagram illustrates how the Investigating Authority's decisions can be contested in both the State Council and the Economic Courts, potentially leading to parallel proceedings. Conflicting appellate outcomes from the Supreme Administrative Court and the Court of Cassation may only be resolved by the Supreme Constitutional Court, adding further delay and uncertainty.

The next section turns to Egypt's domestic legal framework—specifically, Law No. 161 of 1998 and its fragmented judicial interpretation—to explain the observed patterns through the lens of institutional conflict and doctrinal ambiguity.

Ⅳ. Egypt's Safeguard Law and the WTO Agreement: Alignment and Jurisdictional Challenges

The World Trade Organization (WTO) accession of Egypt led to Law No. 161 of 1998 be-

18) Law No. 156 of 2024 Amending the Economic Courts Law, Official Gazette No. 27 bis (10 July, 2024).

coming the fundamental legal framework for safeguard measure implementation.[19] The law establishes procedures for safeguard investigations and public interest balancing while defining the steps for serious injury or threat investigations and measure initiation. The operational implementation of this law shows that it maintains several enduring structural barriers. The main challenge arises from the split jurisdiction between the State Council and the Economic Courts regarding safeguard-related disputes as explained above. Therefore, this section analyzes how the built-in institutional framework and judicial divisions within Egypt's legal system actively impair the safeguard regime's effectiveness and predictability.

4.1 Structure of Law No. 161/1998: Domestic Implementation of WTO Safeguard Principles

Egypt implements trade remedy measures including anti-dumping and safeguard actions through Law No. 161 of 1998 which serves as the main legal instrument for protection of the national economy against unfair practices in international trade. The legal structure of the law serves as the basis for external trade threat responses through WTO-approved methods and establishes procedural rules for investigations and legal measures against imports that harm domestic industries.

Ministry of Investment and Foreign Trade's Trade Agreements Sector (TAS) along with its designated Investigating Authority receives delegations for investigatory and administrative work.[20] The Investigating Authority maintains legal authority to study import surge evidence and launch safeguard investigations and provide temporary and permanent protection recommendations. The amended Executive Regulation grants the Investigating Authority two essential powers to request supplementary information during petition proceedings and to process acceptable applications and deliver final determinations when the inquiry ends according to Ministerial Decree No. 549 of 1998.[21]

---

19) Law No. 161 of 1998, *On the Protection of the National Economy from Injurious Effects of Unfair Practices in International Trade,* Egypt Official Gazette, issue of 5 July 1998.

20) Ibid., arts. 2, 10–12.

The law requires immediate safeguard complaint registration according to Article 16 after verifying the necessary preliminary evidence.[22] Article 84 establishes a mandatory four-year sunset provision for definitive measures which includes an evaluation system to determine the threat of future injury when the safeguard protection ends.[23] The authority has the authority under Article 92 to implement safeguards against circumvention when minor technical modifications or transshipment attempts to evade the safeguard scope.[24]

The ministerial decree serves as the condition for implementing Article 88 which mandates the execution of WTO Dispute Settlement Body (DSB) decisions or Egyptian court rulings.[25] The provision works to merge domestic and international accountability systems yet the practical impact remains limited because of ministerial delays and judicial inconsistencies.

4.2 Egypt's Safeguard Law in Light of the WTO Agreement on Safeguards: Alignment, Gaps, and Ambiguities

This subsection examines the degree to which Egypt's domestic safeguard framework, embodied in Law No. 161/1998 and its Executive Regulations, aligns with, diverges from, or ambiguously implements the WTO Agreement on Safeguards (SGA). it contextualizes the doctrinal comparison by identifying substantive standards, procedural safeguards, and implementation patterns.

4.2.1 Safeguard Standards: Evidentiary Thresholds, and Injury Analysis

The WTO Agreement on Safeguards (SGA), particularly Articles 2 and 4, lays down precise substantive requirements for the application of safeguard measures. These measures may only be

---

21) Ministerial Decree No. 569 of 2008, *Amending the Executive Regulation of Law No. 161/1998*, Egypt Official Gazette, issue of 22 June 2008.

22) Law No. 161 of 1998, art. 16.

23) Ibid., art. 56.

24) Ibid., art. 92.

25) Ibid., art. 88.

imposed where there is demonstrable, objectively verifiable evidence that imports—whether measured in absolute terms or as a proportion of domestic production—are causing or threatening to cause serious injury to a domestic industry. Crucially, the injury determination must be supported by a non-attribution analysis, separating and distinguishing injury caused by increased imports from injury resulting from other, non-import-related domestic factors, in accordance with established WTO jurisprudence.[26)]

Egypt's Law No. 161/1998 reflects much of this framework. Article 16 of the law requires preliminary evidence of increased imports, Article 88 affirms the causal link requirement between such imports and injury, and Articles 16 and along with Article 88, provide for both provisional and definitive measures with defined time limits,[27)] though their practical application has often been scrutinized for consistency with the WTO standard. However, Egyptian practice often does not separate injury from non-import factors—contrary to WTO jurisprudence—and does not explicitly incorporate the "unforeseen developments" standard recognized in Appellate Body rulings.[28)]

4.2.2 Procedural Transparency and Institutional Vulnerabilities

Article 3 of the SGA emphasizes procedural transparency, requiring clear public notice of the initiation of investigations, guaranteeing the right of all interested parties to participate fully in the proceedings (including access to non-confidential evidence and the opportunity to submit written and oral arguments), and obligating the investigating authority to publish reasoned determinations that explain the factual and legal basis for its decisions.[29)] Egypt's Executive Regulation (MD 549/1998), specifically Article 11, prescribes investigation time limits of 12 months (extendable by an additional six months). These provisions set clear maximum durations for the Investigating Authority to complete its work, but the Regulation lacks mechanisms to

26) WTO, *Agreement on Safeguards,* Arts. 2, 4; Appellate Body Report, *Argentina — Footwear (EC),* WT/DS 121/AB/R (1999).

27) Egypt, Law No. 161 of 1998, Arts. 16, 84, 88; Executive Regulation (MD 549/1998).

28) Ibid.; WTO Panel Report, *US — Steel Safeguards,* WT/DS248/R et al. (2003).

29) WTO, *Agreement on Safeguards,* Art. 3.

shield the process from premature judicial intervention, such as early suspension orders by domestic courts, which can undermine the completion of the fact-finding phase.[30] In practice, this procedural gap has enabled courts to issue early judicial suspensions at the request of domestic stakeholders, thereby halting investigations before the Investigating Authority can compile a complete administrative record. Such premature interventions run counter to the SGA's presumption that safeguard investigations should follow a stable, uninterrupted process prior to any judicial review.[31]

4.2.3 Enforcement Dynamics and Practical Outcomes

Under SGA Article 6, provisional measures are an exceptional remedy that may only be applied in situations of "critical circumstances," where delay would cause damage that would be difficult to repair, and must be supported by clear, objective evidence of the need for urgent action. Articles 5 and 7 of the SGA set out not only strict maximum durations for safeguard measures but also a mandatory trajectory of progressive liberalization, requiring that such measures be eased in stages over their lifespan. This framework is intended to preserve their exceptional, short-term character, ensuring they act as transitional relief rather than a covert form of long-term protectionism. The progressive liberalization obligation means that, for any extension beyond the initial period, a Member must demonstrate ongoing necessity while simultaneously reducing the measure's restrictiveness in a transparent and predictable manner, aligning with the SGA's underlying goal of restoring competitive conditions as soon as practicable.[32]

By contrast, Egypt's Law No. 161/1998 (Art. 16) permits the imposition of provisional measures solely on the basis of prima facie evidence, without requiring the additional "critical circumstances" test mandated by the SGA. This lowers the evidentiary threshold compared to WTO standards and enables earlier intervention in trade flows. Under Art. 84 of the safeguard section of Law No. 161/1998, definitive measures are provided for with an initial maximum duration of four years, extendable up to a total of ten years (including any provisional measures),

30) Egypt, MD 549/1998, Art. 11.

31) Author manuscript, section 4.3 (the discussion of jurisdictional conflicts and judicial mandates)

32) WTO, *Agreement on Safeguards,* Arts. 5-7.

subject to review and possible extension, aligning in duration with the SGA's safeguard limits but omitting an explicit requirement for progressive liberalization. The article specifies the procedural steps and conditions under which such measures may be maintained, ensuring that they are based on the injury determinations made by the competent authority, yet leaving room for interpretive flexibility in implementation, and under Art. 88, obligates the competent authorities to implement final rulings of the WTO dispute settlement system or domestic courts, embedding external and internal review outcomes directly into the national enforcement framework.[33)]

In practice, Egyptian authorities have tended to apply provisional measures more broadly, particularly in politically sensitive or strategic sectors such as steel, fertilizers, and textiles, with a notable pattern of terminating investigations after provisional measures expire. This recurrent use-and-termination cycle raises concerns as to whether the evidentiary thresholds at the initiation stage fully align with the WTO's safeguard standards and whether provisional measures are being used as a de facto policy tool rather than as an emergency remedy.[34)]

Article 12 of the SGA obligates Members to notify safeguard actions to the WTO, specifying the nature and justification of the measure, its expected duration, and any liberalization timetable; to hold consultations with affected Members; and to commit to a schedule of progressive liberalization in the case of extended measures.[35)] This provision reflects the transparency and reciprocity principles at the heart of the WTO system, aiming to ensure that safeguards are not used as covert protectionist tools but as temporary, well-regulated relief measures accompanied by engagement with trading partners. Egypt's notifications (e.g., N6EGY9, N8EGY7) meet these procedural requirements in form but show no evidence of offering compensation under Article 8 or initiating WTO dispute settlement proceedings to defend or adjust its measures.[36)] This pattern suggests that Egypt's safeguard regime functions primarily within a domestically oriented en-

33) Egypt, Law No. 161/1998, Arts. 16, 84, 88; see also Executive Regulation (MD 549/1998).

34) Author's data analysis (Section III: Empirical Evidence – Egypt's Safeguard Practices before the WTO, 1998–2025).

35) WTO, *Agreement on Safeguards,* Art. 12.

36) WTO Committee on Safeguards, "Notifications Under Article 12 of the Agreement on Safeguards," WTO Committee on Safeguards, Notification No. N6EGY9 (Dec. 5, 2012) and Notification of Final Safeguard Measure Proposed: Egypt – Steel Rebar (N8EGY7), April 16, 2015.

forcement model, engaging only minimally with the reciprocal negotiation, compensation, and multilateral review processes envisioned by the SGA.

WTO safeguards presume coherent domestic review post-determination. Egypt's dual-court model—Administrative Courts and Economic Courts—creates overlapping jurisdiction, enabling forum shopping and conflicting interim orders.[37] Even at appellate level, the Supreme Administrative Court and Court of Cassation may diverge, requiring Supreme Constitutional Court intervention.[38] This institutional complexity is absent from the SGA framework and undermines predictability.

From this comparison, several reform priorities emerge: explicitly integrate "unforeseen developments" and strengthen non-attribution analysis; introduce procedural safeguards against early judicial intervention during investigations; tighten the application of "critical circumstances" for provisional measures; establish clear jurisdictional hierarchy between courts to minimize forum shopping; and enhance WTO consultation and compensation practices for measures exceeding three years.

4.3 Navigating Egypt's Jurisdictional Divide: Conflicting Judicial Mandates and Case Law Themes

The operationalization of safeguard measures under Law No. 161 of 1998 has not only been challenged by procedural ambiguities but also severely complicated by the jurisdictional divide between the State Council and the Economic Courts.[39] This dual-track judicial structure may become a breeding ground for legal fragmentation, encouraging litigants to engage in forum shopping depending on the strategic interest of either enforcing or annulling trade remedy measures.

37) Author manuscript, section 4.3 (the discussion of jurisdictional conflicts and judicial mandates)

38) Ibid.

39) See figure (No. 5) in subsection 3.1., *Distinctive Patterns and Judicial Complexities in Egypt's Safeguard Governance,* which is a visual representation of the dual judicial structure governing safeguard disputes in Egypt. It specifically links the discussion here to that subsection and figure without restating the explanatory details.

4.3.1 Supreme Constitutional Court Interventions in Jurisdictional Conflicts

As indicated above in theory, the Supreme Constitutional Court (SCC) of Egypt could resolve these jurisdictional overlaps by defining the judicial boundaries between the Economic Courts and the State Council.[40] The Court has previously ruled on issues of judicial competence and the separation of powers, offering constitutional clarification on jurisdictional conflicts.[41]

Most significantly, in Case No. 2 of Judicial Year 44, decided in July 2025, the Supreme Constitutional Court resolved a positive jurisdictional conflict between a final ruling of the Cairo Economic Court (Case No. 1055 of Judicial Year 1) and a subsequent contradictory ruling of the Administrative Court (Case No. 45765 of Judicial Year 72). The SCC upheld the Economic Court's judgment, reaffirming that disputes between private legal persons—even when touching upon administrative oversight or international trade—fall within the jurisdiction of the ordinary judiciary. The Court cited Article 188 of the Constitution and emphasized that jurisdiction must be determined by the nature of the dispute, not the identity of the administrative authority involved.[42]

The Supreme Constitutional Court in this case clearly stated that when private legal entities are involved in disputes, like these ones fall under the Economic Court judiciary's scope; yet the ruling sheds light on a potential gray area within the jurisdiction framework itself. The court highlighted that it's crucial to consider the nature of the dispute than solely focusing on who's involved or which administrative body is implicated; however, it did not provide a clear standard, for differentiating between regulatory actions and civil commercial conflicts consistently. The court recognized that the competent authority is responsible for overseeing matters relevant to the scope of disputes within its designated jurisdiction and handling challenges to its decisions in that sphere but excluded disputes between parties over purely private commercial or contractual rights from this jurisdictional scope This subtle differentiation may introduce ambi-

40) Ibid.

41) Supreme Constitutional Court rulings on judicial jurisdiction under Law No. 48 of 1979.

42) Supreme Constitutional Court, Case No. 2 of Judicial Year 44, judgment of July 2025 (jurisdiction upheld for Economic Court).

guity in interpretation, in conflicts involving actions and contractual or commercial assertions. The Court aimed to define the limits of authority while recognizing that the presence of a body does not inherently grant jurisdiction to administrative courts. A point that could lead to differing interpretations in upcoming cases despite its clarifying intent.

4.3.2 Procedural Barriers and the Limits of Constitutional Review

The distinction between admissible and inadmissible jurisdictional conflicts was clarified further in Case No. 3 of Judicial Year 40, judgment of November 3, 2018. In this ruling, the Court determined that a jurisdictional conflict between the Appellate Chamber of the Cairo Economic Court and the 6th of October Primary Court—both belonging to the ordinary judiciary—did not meet the admissibility conditions under Article 25(2) of Law No. 48 of 1979. Since both chambers operate under the same judicial authority, the SCC ruled that only the ordinary judiciary itself could resolve the matter, thus excluding the SCC's jurisdiction. This case illustrates that intra-authority conflicts are procedurally excluded from constitutional review, and it reinforces the SCC's constrained role when disputes do not involve separate judicial entities.[43)]

The recent decision also uncovers an uncertainty, in defining the boundaries of jurisdiction in handling judicial disputes, within the legal system. In particular, within courts such as the Economic Courts that follow rules and appeal processes and deal with specific areas of law may not necessarily align with the conventional view of a unified judiciary system in a straightforward manner. The distinct legal basis of the Economic Court established by Law No 120 of 2008 and its direct review process for appeals could differentiate it from courts, like the 6th of October Primary Court. The Court might have missed the differences, in structure and process between these two bodies when considering them as a single authority in cases of jurisdictional conflict. This could lead to confusion for those involved in disputes. Although the decision officially rules out review, for cases it also highlights the challenges that can arise when dealing with multiple judicial forums under one overarching institution.

43) Supreme Constitutional Court, Case No. 3 of Judicial Year 40, judgment of Nov. 3, 2018 (ordinary judiciary conflict inadmissible).

In Case No. 25 of Judicial Year 42, decided on September 4, 2021, the Supreme Constitutional Court dismissed a conflict of jurisdiction petition because one of the decisions involved—a provisional order issued by the summary judge of the administrative judiciary—was not a final judgment. The Court held that according to Article 25(3) of Law No. 48 of 1979, a jurisdictional conflict petition is only admissible when two contradictory final judgments exis t.[44] Since only the Cairo Economic Court's ruling was final, the conditions for admissibility were not met, and the Court declined to intervene substantively.

This case highlights how litigants may exploit procedural ambiguities by rushing to file jurisdictional conflict petitions before the Supreme Constitutional Court, even in the absence of final judgments. As a result, litigation timelines are unnecessarily extended, and the process may be misused to stall enforcement or create additional legal uncertainty, ultimately undermining efficiency in the resolution of safeguard-related disputes.

4.3.3 Court of Cassation Guidance and Risks of Forum Shopping

Another important ruling comes from the Court of Cassation, which in Appeal No. 17051 of Judicial Year 82 (January 11, 2016), confirmed the general jurisdiction of Economic Courts over economic disputes. It emphasized that exceptions to this jurisdiction must be grounded in explicit legal text and interpreted narrowly. This judgment not only reinforced the role of Economic Courts in handling disputes relating to trade and investment but also illustrated the potential for prolonged litigation timelines.[45] A key implication of the Court of Cassation's ruling is its implicit warning against the dangers of forum shopping and jurisdictional fragmentation. If a litigant refiles the same claim before the administrative judiciary after an ordinary court—such as the Economic Court—has declined jurisdiction or ruled substantively, this may result in parallel litigation and undermine judicial consistency. The judgment makes clear that only a specific legislative mandate can justify transferring jurisdiction to the administrative

44) Supreme Constitutional Court, Case No. 25 of Judicial Year 42, judgment of Sept. 4, 2021 (final judgment conflict).

45) Court of Cassation, Appeal No. 17051 of Judicial Year 82, judgment of Jan. 11, 2016.

courts, absent such a basis, the claim risks inadmissibility or eventual annulment. Moreover, if both the ordinary and administrative courts accept the case and render conflicting final judgments, this creates the conditions for a positive jurisdictional conflict under Article 25 of Law No. 48 of 1979, triggering the intervention of the Supreme Constitutional Court. This process not only imposes procedural burdens and delays but also generates significant legal uncertainty —precisely the systemic dysfunction the Court of Cassation sought to prevent through its emphasis on jurisdictional clarity and disciplined adjudication.

Despite such judgments, the SCC's insistence on procedural conditions has effectively blocked judicial clarification. The Court's refusal to intervene substantively in overlapping international trade-related litigation has left unresolved contradictions in judicial mandates, with parties continuing to litigate in dual forums and outcomes remaining unpredictable.

In sum, the absence of a clearly defined judicial hierarchy, coupled with the contradictory functions assumed by the Administrative and Economic Courts, has structurally undermined Egypt's safeguard regime. The result is judicial incoherence, policy gridlock, and a misalignment with international trade obligations, all of which reflect systemic obstacles to the proper application of trade remedies.

In the next section Egypt's steel safeguard measures offer a highly illustrative case of judicial fragmentation in the enforcement of trade remedies. These cases provide an ideal entry point to observe how Egypt's judicial system leads to structural incoherence and enforcement paralysis. The significance of this case study lies in the fact that it is not hypothetical, abstract, or doctrinal alone, but rather reflects how legal uncertainty unfolds in practice with direct consequences for producers, importers, regulators, and international trade partners.

Ⅴ. Case Study and Legal- Policy Breakdown: Steel Safeguards and Judicial Fragmentation

This subsection outlines the verified chronology of government responses and market developments concerning steel imports into Egypt between 2012 and 2025. This section explores the steel safeguard cases as a case study of systemic dysfunction, illustrating the doctrinal overlap, jurisdictional inconsistency, and procedural unpredictability that undermine Egypt's ability to implement safeguard measures in a manner that is both legally coherent and WTO-compliant.

5.1 Government Actions and Market Shifts: The Evolution of Steel Rebar Imports in Egypt (2012–2025)

Egypt faces a persistent rise in imported steel rebar quantities above regular market levels. Local steel rebar manufacturers have filed complaints regarding the surge of dumped-priced foreign steel rebar imports which disrupts fair market competition. The situation caused severe consequences for domestic manufacturing operations and workforce levels which led the Egyptian government to establish legal and regulatory measures against the dangerous price increases through safeguard duty implementation and company complaint assessments. In 2012 the Chamber of Metallurgical Industries submitted a complaint to the Ministry of Industry about the unexpected growth of steel rebar imports at prices below domestic manufacturing costs.[46] The government established a first provisional safeguard duty at 6.8% to protect steel rebar imports in November 2012. The final implementation delay minimized the effectiveness of this measure.[47]

During the peak of the crisis between 2015 and 2017 the Egyptian pound devaluation raised production expenses for domestic manufacturers including energy costs raw material expenses and funding requirements yet steel rebar import prices in U.S. dollars decreased. The government took safeguard actions in 2015 because of these developments.[48]

Traders shifted to importing raw billet instead of rebar as a way to avoid paying duties on finished products. The transition put more strain on domestic integrated steel mills which produced billet such as Ezz Steel and Suez Steel. Integrated producers who operated domestically requested

46) Chamber of Metallurgical Industries. *"Complaint... September 23, 2012."* Announcement No. 10 of 2012. Cairo Chamber of Commerce. (In Arabic), https://www.cairochamber.org.eg/Page.aspx?Id=223.

47) WTO Committee on Safeguards, "Notification of Provisional Safeguard Measure: Egypt – Steel Rebar (Notification No. N6EGY9)," December 5, 2012.

48) Building Materials Division. *"Steel Rebar is Expected to Exceed 8,000 pounds by the end of October."* Al Borsa Newspaper, October 23, 2016. (In Arabic), https://www.alborsaanews.com/2016/10/23/915060.

the implementation of duties on billet imports.[49] The duty implementation received resistance from Rolling mills who feared it would eliminate them from the market.[50]

The Ministry of Trade applied provisional safeguard duties at 15% to billet imports in April 2019 before making them definitive through 2022.[51] Rolling mills requested the elimination of billet import duties since they believed the decision would benefit monopolies.[52]

A court ruling in July 2019 initially supported the rolling mills, yet the Supreme Administrative Court reversed this decision in October 2019 by confirming the legal basis for the duties. Following this, the Minister of Trade confirmed that the safeguard duties would remain in effect.[53]

The Minister of Trade made the decision to eliminate safeguard duties on imported steel rebar and billet in November 2021. The Minister of Trade explained the decision to remove safeguard duties because of the need to reduce industrial sector burdens from COVID-19 and global price inflation.[54]

The decision received strong opposition from steel producers who claimed it would create an opportunity for large steel imports to enter the market.

On April 22, 2025, the Ministry of Investment and Foreign Trade began an investigation based on Law No. 161 of 1998 to examine the rapid growth of hot-rolled steel (HRC) imports and its ef-

49) "Government Decisions Threaten Steel Investors' Expansion Plans." EconomyPlus, May 8, 2019. (In Arabic), https://economyplusme.com/en/8638/.

50) WTO Committee on Safeguards, "Notification of Final Safeguard Measure Proposed: Egypt – Steel Rebar (Notification No. N8EGY7)," April 16, 2015.

51) WTO Committee on Safeguards, "Notification of Provisional Safeguard Measure: Egypt – Steel Rebar (Notification No. N7EGY11)," April 12, 2019.

52) Ministry of Trade and Industry. Ministerial Decree No. 346 of 2019. Official Gazette, Issue No. 88, April 15, 2019. (In Arabic), https://egyptianlaws.com/?p=167553.

53) "Extension of Protective and Safeguard Duties on Steel and Billet Imports for Six Months." Export Development Authority, May 4, 2020. (In Arabic), http://www.expoegypt.gov.eg/news/استمرار-الرسوم-الوقائية-والحمائ
ية-على-واردات-الحديد-بنسبة-25--من-للحد-نسعى-جامع-نيفين-كورونا-فيروس-أزمة-ظل-في-الوطنية-الصناعة-لحماية-نهدف-الصناعة-وزيرة-للبيليت-16و
الممارسات-الضارة-على-المنتج-المحلى.

54) Ministry of Trade and Industry. Trade and Industry Magazine. Issue No. 39, p. 13, December 2021. (In Arabic), http://www.mti.gov.eg/Arabic/Pages/reports.aspx?folder=مجلة%20صنع%20في%20مصر.

fects on national industries.[55] The safeguard measure was published through Ministerial Announcement No. 6 of 2025 in the Official Gazette on April 27, 2025.[56]

5.2 The 2012 Steel Rebar Safeguard Dispute and Definitive Measures Failure

A critical case showing the trade remedy enforcement versus Egypt's fragmented judicial oversight can be seen in the 2012 safeguard proceedings for steel rebar. The process began with several major domestic steel producers submitting a complaint to the Anti-Dumping, Subsidy, and Safeguard Authority which presented a rise in rebar imports that endangered the survival of local producers.[57]

The Anti-Dumping, Subsidy and Safeguard Authority rejected the previous complaint that had been filed in August 2010 on July 7, 2011, yet the 2012 investigation revealed a significant 85% absolute and 70% relative increase in steel imports. Local producers managed to improve their operational performance but still faced deteriorating profitability alongside 4% lower capacity utilization and unexploited 33% production capacity. The Authority accepted the complaint and applied provisional measures under Ministerial Decree No. 944 of 2012 because of expected import diversion from countries undergoing trade investigations elsewhere.[58]

55) WTO Committee on Safeguards, "Notification of Safeguard Investigation Initiated: Egypt – Hot Rolled Flat Steel (Notification No. N6EGY16)," April 29, 2025.

56) Ministry of Investment and Foreign Trade. *Ministerial Announcement No. 6 of 2025.* Al-Waqa'i' al-Masriyya (Egyptian Gazette), Issue No. 93 (Supplement "A"), April 27, 2025. (In Arabic), https://www.almasdar.com/155038.

57) On September 23, 2012, the Anti-Dumping, Subsidy, and Safeguard Authority received a formal complaint from the Chamber of Metallurgical Industries, acting on behalf of several domestic rebar producers, including: Suez Steel Industries Co., Sarhan Steel Co., Egyptian Steel Co., Suez Steel Co., Misr National Steel Co. (Ataqa), Port Said National Steel Co., Egyptian Co. for Iron and Steel Products, El-Marakby Steel Industries, Medi Steel Co., Eastar Egypt (6th of October), National Rolling Steel Co.
These producers collectively accounted for 44.61% of total domestic production.
The complaint alleged that the large and unjustified increases in imports of rebar for construction posed a serious and imminent threat to the viability of the domestic industry, which could soon be forced to cease operations unless urgent safeguard measures were adopted. Anti-Dumping, Subsidy, and Safeguard Authority. "Sector Role." Ministry of Trade and Industry. http://www.mti.gov.eg/Arabic/aboutus/Sectors/Entities1/treatments/Pages/sector-role.aspx. (In Arabic).

Egypt notified the WTO Committee on Safeguards of its plan to implement provisional safeguard measures through Notification No. N6EGY9 on December 5, 2012.[59] The measure in dispute Ministerial Decree No. 944 of 2012 set an import duty of 6.8% (minimum EGP 299 per ton) on imported rebar that lasted for 200 days.

Shortly after the decree was passed the Administrative Judiciary received the lawsuit (Case No. 18433 of Judicial Year 67) filed by Mahmoud El-Askalani who headed the "Citizens Against Price Increases" association.[60] The claimant requested the cancellation and the immediate halt of the decree since it damaged consumers and because of Egypt's free trade obligations under its WTO commitments (Presidential Decree No. 72 of 1995) and the requirements of Law No. 161 of 1998.[61]

The Administrative Court made a decision on April 6, 2013 which dismissed the complaint by confirming the legitimacy of the safeguard measure. The Court stated that the Anti-Dumping Authority complied with Law No. 161 and supported its decision with specific evidence of injury such as market share decline and profit reduction as well as employee layoffs and underused plant capacity.[62] The Court dismissed Ezz Steel's profitability data because it was irrelevant to the case and it supported the government's right to protect domestic industries based on dynamic economic conditions and sector-specific risks.

The government ended the safeguard measure within a year after receiving legal approval through WTO Notification No. N7EGY8S1 on December 4, 2013.[63] Political instability and judicial challenges from Economic Courts and the Supreme Constitutional Court likely drove the decision to end the safeguard measure. The combination of post-revolution instability with economic fragility and political polarization made any measures that raised costs or reduced supply more sensitive espe-

---

58) Ministerial Decree No. 944 of 2012, imposing provisional safeguard duties on imported rebar.

59) WTO Committee on Safeguards, Notification No. N6EGY9 (Dec. 5, 2012).

60) Case No. 18433 of Judicial Year 67, Administrative Judiciary.

61) Presidential Decree No. 72 of 1995 (WTO accession); Law No. 161 of 1998 on Safeguards.

62) Administrative Court Ruling, April 6, 2013, Case No. 18433 of Judicial Year 67.

63) WTO Committee on Safeguards, Notification No. N7EGY8S1 (Dec. 4, 2013).

cially in strategic sectors like construction.

This case demonstrates how judicial unpredictability and policy changes negatively affect the effectiveness of safeguard enforcement in Egypt. The legal frameworks' observation and court endorsement do not prevent safeguard measures from being dismantled prematurely by overlapping jurisdictions and political uncertainty and anticipatory legal pressures which reveal structural weaknesses in trade remedy governance.

5.3 The 2015 Steel Rebar Safe- guard Measures Case and Its Shift to Anti-Dumping

The Egyptian government implemented a second set of steel safeguard measures between 2014 and 2017 because rebar imports rose by 251% from 2011 levels. The domestic steel industry suffered significant harm during the first nine months of 2014 because it lost an estimated USD 65 million. The injury to the domestic steel industry resulted primarily from worldwide steel price declines together with significant foreign subsidies which China and Turkey provided (China covered 18% of production costs and Turkey provided up to 40% subsidies). The foreign rebar market became more competitive than local products even when freight and customs costs were included.[64)]

The existing 8% safeguard duty failed to protect domestic producers from foreign subsidies according to their claims. The Egyptian steel producers faced two major domestic challenges during this period: rising energy costs after the 2014 subsidy cuts and natural gas shortages which reduced factory utilization to under 60% and increased unit costs.[65)]

The Chamber of Metallurgical Industries submitted a complaint to the Anti-Dumping Subsidy and Safeguard Authority on behalf of major steel producers including Ezz Steel Suez Steel and Beshay. Egypt initiated the investigation on 22 April 2025.[66)] The investigation proved that ris-

64) Ministry of Trade and Industry (Egypt). *"News Page."* Accessed May 16, 2025. http://www.mti.gov.eg/Arabic/MediaCenter/News/Pages/default.aspx. (In Arabic).

65) Ibid.

ing imports caused material harm to the domestic industry while threatening its survival.[67] A provisional safeguard duty of 7.3% CIF (minimum EGP 290 per ton) was established in October 2014 for 200 days.[68]

Table 1: Phased Implementation of Safeguard Duties on Steel Rebar Imports in Egypt (2014-2017)

Implementation Period	Safeguard Duty on Imports
Oct 12, 2014 – Apr 2015 (Provisional)	7.3% CIF per ton (min. EGP 290/ton)
May 2, 2015 – Oct 13, 2015 (Year 1)	8% CIF per ton (min. EGP 408/ton)
Oct 14, 2015 – Oct 13, 2016 (Year 2)	6.5% CIF per ton (min. EGP 325/ton)
Oct 14, 2016 – Oct 13, 2017 (Year 3)	3.5% CIF per ton (min. EGP 175/ton)

Source: Ministerial Decree No. 287/2015 - Established the timeline and graduated safeguard duty rates for steel rebar imports, effective from May 2015

The safeguard duty received its final form through Ministerial Decree No. 287/2015 which established a three-year definitive safeguard duty.[69] The safeguard duty was applied during the full three phases, ending on October 13, 2017, as indicated in the table number 1 above.

The measures received WTO approval through April 2015 notification yet faced immediate legal challenges.[70] The Administrative Court in Cairo (First Circuit) received a lawsuit in 2015 which sought to nullify the decree through importers of steel and trade associations. Although the court "upheld the Minister's decision" to impose a safeguard duty on steel rebar imports, the legal proceedings against the policy created doubts about its long-term stability even though the policy remained in effect.[71] As result the Ministry changed its approach in June 2017 be-

66) World Trade Organization. *Notification under Article 12.1(a) of the Agreement on Safeguards - Egypt.* Document symbol G/SG/N/6/EGY/16, Doc. No. 25-2952, April 29, 2025. Accessed via WTO Documents Online. https://docs.wto.org.

67) Egyptian official gazette No. 93 supplementary (a) on 27/4/2025.

68) Ministry of Trade and Industry (Egypt). *Ministerial Decree No. 765 of 2014.* (In Arabic).

69) World Trade Organization. *Supplementary Notification under Article 9.1 of the Agreement on Safeguards - Egypt.* Document symbol G/SG/N/11/EGY/8/Suppl.1, April 16, 2015.

70) World Trade Organization. *Safeguard Measures: Egypt - Final Measure Proposed on Steel Products.* Notification ID N8EGY7, April 16, 2015.

cause of simultaneous legal pressure from importers and political pressure from producers by suspending the safeguard measure (Ministerial Decision No. 287/2015) and imposing provisional anti-dumping duties on steel rebar imports.[72]

Table 2: Provisional Anti-Dumping Duties Imposed on Steel Rebar Imports by Country (June 2017)

Country	Provisional Anti-Dumping Duty
China	17% of CIF value
Turkey	10% to 19% of CIF value
Ukraine	15% to 27% of CIF value

Source: Egypt, Ministerial Decision No. 874/2017 (6 June 2017), Official Gazette, 7 June 2017, suspending Ministerial Decision No. 287/2015 and imposing provisional anti-dumping duties on steel rebar imports.

The decree established Article 3 which suspended all previous safeguard measures that Ministerial Decree No. 287/2015 had implemented. The implementation of safeguard duties ended on June 7, 2017, when targeted anti-dumping duties took their place.[73]

The Ministry established the final antidumping duties for five years at equivalent rates during the same year. The safeguard regime operated for less than three years because political forces together with legal and administrative challenges forced its early dismantling.[74]

This case demonstrates how Egyptian trade remedy systems remain weak because safeguard measures face risks from both domestic political and judicial elements and external economic conditions. The 2015 protection measures ended prematurely because of pending lawsuits and changing government priorities which forced a strategic shift in trade enforcement practices.

71) “Administrative Court Upholds Imposition of Duties on Steel Rebar Imports,” *Al-Masry Al-Youm,* June 6, 2015, https://www.almasryalyoum.com/news/details/883582. (In Arabic).

72) Egypt, Ministerial Decision No. 874/2017 (6 June 2017), Official Gazette, 7 June 2017.

73) Ibid.

74) WTO Committee on Anti-Dumping Practices, *Semi-Annual Report under Article 16.4 of the Agreement: Egypt (Document No. G/ADP/N/308/EGY),* January 31, 2018, Doc. No. 18-0693.

5.4 Legal Conflicts and Policy Reversals: The 2019 Billet and Rebar Safeguard Measures Case

This case demonstrates the most intricate safeguard dispute in Egypt because it shows how trade policy interacts with administrative intervention while undergoing extended judicial review. The leading domestic producers Suez Steel, Ezz Steel Group, El-Marakby Steel and Kandil Steel submitted a formal safeguard complaint to Egypt's Trade Remedies Sector on November 5, 2018. The application submitted under Article 14 of the Executive Regulations of Law No. 161 of 1998 presented evidence that rebar and semi-finished steel (billet) imports had surged to cause major damage to the domestic industry. The preliminary assessment revealed severe commercial distress through domestic sales decreased by 18% and market share dropped 13% while inventory increased 124% and the industry shifted from profitability to loss.[75)]

The domestic steel producers obtained preliminary safeguard complaint acceptance from Egypt which led to an official WTO investigation after Egypt notified the World Trade Organization on April 2, 2019. The Ministry of Trade and Industry declared in its notification that the rapid increase in imports caused direct damage to the domestic steel industry through inventory accumulation and declining market presence and reduced profitability. The notification emerged from the domestic industry petition filed on November 5, 2018 which received Trade Remedies Sector preliminary review approval before Ministerial Decree No. 346 of 2019 established provisional duties as it is shown in table number 3.[76)]

Table 3:2019 Provisional Safeguard Duties on Rabar and Billet

Product	Provisional Duty	Period
Rebar (HS 7213, 7214)	25% CIF ad valorem	180 days
Billet (HS 7207)	Graduated CIF duty: 15% to 0%, based on import price tiers	180 days

75) Ministry of Trade and Industry (Egypt). *"News Page."* Accessed May 16, 2025. http://www.mti.gov.eg/Arabic/MediaCenter/News/Pages/default.aspx. (In Arabic).

76) World Trade Organization. *Notification to the Committee on Safeguards: G/SG/N/6/EGY/14.* April 2, 2019.

Source: Ministerial Decree No. 346 of 2019

This decree established that duties needed to be calculated from monthly reference prices set by the Trade Remedies Sector instead of invoice values. The Export Development Fund received all collected duties which were deposited into a designated Central Bank account.[77)]

The judicial response to the safe- guard decree was immediate and disruptive.

The Administrative Court issued a suspension order for billet duties through Case No. 45890/73JY because 22 rolling mills were shut down on July 4, 2019. The court denied all stay petitions submitted by the Ministry of Trade and Industry along with several steel producers through Case No. 46010/73JY and 24 related interlocutory motions only twenty days after the initial decision. The court stated that the petitions lacked new legal arguments and were filed prematurely.[78)]

The consecutive court decisions created substantial legal ambiguity throughout the process. The safeguard measures became inoperable thus blocking duty collection and creating a complete breakdown of the trade protection system. The rapid judicial response to the ministerial decree demonstrates how vulnerable trade remedy enforcement can be in Egypt during short periods of time. The rapid mobilization of administrative courts by affected parties exposes the system to potential misuse and strategic litigation. Such rulings made before final determinations or higher court review may unintentionally reduce state capacity to handle urgent trade crises.

Reversal by Supreme Administrative Court and Policy Resurgence

The Supreme Administrative Court (Case No. 89006/65JY) accepted 48 government and producer appeals on October 12, 2019 to validate Decree No. 346/2019,[79)] which the court recognized

77) Ministry of Trade and Industry (Egypt). *Ministerial Decree No. 346 of 2019.* Official Gazette, No. 88 (bis), April 15, 2019. (In Arabic).

78) Administrative Court (Egypt). *Ruling in Case No. 45890/73JY.* July 4, 2019. (In Arabic).

79) In this case the First Circuit of the Supreme Administrative Court has scheduled a hearing for August 4 to review eight appeals filed by the State Lawsuits Authority on behalf of the Minister of Trade and Industry and several iron and steel companies adversely affected by a previous ruling. The appeals challenge the decision issued by the Administrative Court of the State Council, which had suspended the Ministry's decision

as a legitimate national economic protection measure.[80)]

The Ministry issued Ministerial Decree No. 907/2019 which the Official Gazette published on the same day the court made its ruling.[81)] It imposed final safeguard measures for three years and replacing the Decree No. 346/2019 (provisional measures) as shown in table number 4:

Table 4:2019 Definitive Safeguard Measures on Rebar and Billet

Product	Oct 2019 – Apr 2020	Apr 2020 – Apr 2021	Apr 2021 – Apr 2022
Rebar	25% CIF	21% CIF	17% CIF
Billet	16.5% CIF	13.5% CIF	10.5% CIF

Source: Ministerial Decree No. 907/2019, Official Gazette, No. 227, October 12, 2019.

Abrupt Termination and Industry Backlash

The Ministerial Decrees No. 550 and 551 of 2021 issued on November 14, 2021, terminated the safeguard duties right away five months prior to their scheduled expiration date. The Official Gazette published the sudden termination of these duties the following day when Turkey faced a worsening currency crisis that made Turkish steel exports more competitive.[82)] The policy change received strong opposition from manufacturers because domestic factories maintained 60% operational capacity. The premature elimination of protection measures according to El-Marakby Steel and other stakeholders would lead to faster import penetration while damaging the stability of the local industry.

to impose a 15% safeguard duty on imports of billet (semi-finished steel products). (See, *Case No. 45890/73JY.* July 4, 2019) The appeals, registered under the numbers 89008, 88677, 89002, 89003, 89003 (duplicate), 89004, 89005, 89006, and 89007, are directed against the Chairman of the Board of Al-Oula Rolling Steel Company and the Chairman of the Board of El-Gioushy Steel Company. *Case No. 46010/73JY.* July 24, 2019. (In Arabic).

80) Administrative Court (Egypt). *Ruling in Case No. 46010/73JY.* July 24, 2019. (In Arabic).

81) Ministry of Trade and Industry (Egypt). *Ministerial Decree No. 907 of 2019.* Official Gazette, No. 227, October 12, 2019. (In Arabic).

82) Ministry of Trade and Industry (Egypt). *Ministerial Decrees No. 550 and 551 of 2021.* Official Gazette, No. 255 (bis), November 14, 2021. (In Arabic).

The case demonstrates how trade remedy law interacts with judicial review and policy inconsistency in a volatile manner. The Administrative Court initiated the disruption of the enforcement process when it suspended billet duties in July 2019. The Ministry filed multiple interlocutory motions to defend its position but judicial resistance continued until the Supreme Administrative Court reversed the earlier decision in October 2019. The Supreme Court's reversal on the same day the safeguard duties were imposed demonstrated that legal uncertainty directly followed from abrupt executive action. The November 2021 ministerial repeal of safeguard duties before their scheduled expiration date created additional concerns about Egypt's trade policy reliability. The repeated judicial challenges combined with swift executive policy changes resulted in implementation gaps that damaged investor and industry confidence. The episode demonstrates how litigation pressure together with executive inconsistency weakens the reliability of national trade defense mechanisms.

5.5 Escalation and Recurrence: The 2025 Hot-Rolled Steel Investigation

The year 2025 witnessed a new chapter in Egypt's ongoing struggle to implement stable and effective safeguard measures in the steel sector. The policy demonstrates persistent issues since failed and abruptly terminated safeguard initiatives have created ongoing cycles of complaint and investigation which result in legal or political stalemates. The Minister of Trade and Investment made the final approval to launch an official investigation about specified steel products through the recommendation of the Anti-Dumping, Subsidy, and Safeguard Authority on April 22, 2025. Ezz El-Dekheila Steel and Ezz Flat Steel submitted their complaint about domestic industry harm due to import surges from 2021 to 2024.[83)]

The government released the investigation initiation announcement through the Official Gazette (Issue No. 93, Supplement A) on April 27, 2025.[84)] The announcement contained essential guidelines for registration and procedures which applied to all involved importers exporters and

83) *"Egypt Opens Safeguard Investigation on Hot Rolled Flat Steel."* SteelRadar, April 27, 2025. https://www.steelradar.com/en/egypt-launches-protective-measures-against-hot-rolled-flat-steel-imports/.

84) Egypt's Official Gazette Issue No. 93, Supplement A, April 27, 2025.

stakeholders. All parties needed to file their technical documents and economic data and legal observations during a 30-day period.[85] The Ministry of Trade and Investment instructed all interested parties to register with the Authority while requesting detailed information about their operational activities that included production statistics and pricing details and market data and employment figures and capacity utilization metrics.

The investigation examines all imports of hot-rolled flat steel products which include both non-worked and semi-worked variants under tariff lines 7208.10 to 7226.99 according to the decree.[86] The complaint documents how exporters have driven a dramatic increase in low-cost imports which led to domestic price declines and production line closures in Egyptian steel mills.[87]

During July 2025 no decisions were made about implementing either provisional or definitive safeguard duties. The investigation process continues through verification visits and public hearings while expecting final assessments to take place during the second half of 2025.[88]

The fourth steel-related safeguard investigation launched in 2025 demonstrates that the policy has consistently broken down throughout the last ten years. The attempts to protect domestic producers from harmful import surges face immediate judicial suspension together with premature repeal and executive indecision. The inability of local industry to receive protection has empowered foreign exporters to continue their activities while creating prolonged uncertainty for local businesses. The Egyptian safeguard regime has shown through its past cases including Decree No. 907/2019 that institutional fragmentation leads to impossible durable enforcement of its policies.

---

85) World Trade Organization. *Notification under Article 12.1(a) of the Agreement on Safeguards – Egypt.* Document symbol G/SG/N/6/EGY/16, Doc. No. 25-2952, April 29, 2025.

86) The products subject to this investigation were Hot Rolled Flat Steel (HRC and/or HRFS) (the products concerned). They were classified under the following H.S. tariff item numbers in the Egyptian customs tariff schedule: 7208.10, 7208.25, 7208.26, 7208.27, 7208.36, 7208.37, 7208.38, 7208.39, 7208.40, 7208.51, 7208.52, 7208.53, 7208.54, 7208.90, 7211.14, 7211.19, 7225.30, 7225.40, 7226.91, 7226.99 within the Egyptian Customs Tariff Schedule. World Trade Organization, *Notification under Article 12.1(a) – Egypt,* G/SG/N/6/EGY/16.

87) CNN Arabic. *"Drop in Market Value of Ezz Steel After Factory Malfunction... Experts Explain."* November 29, 2024. https://arabic.cnn.com/middle-east/article/2024/11/29/egypt-market-value-ezz-steel-a-factory-malfunction-experts. (In Arabic).

88) Author's review of available official publications and lack of final decree as of July 1, 2025.

The 2025 case serves as evidence of systematic inefficiency and policy inconsistency that damages long-term industrial strategy.

5.6 Structural Implications: Judicial Fragmentation and Policy Volatility in Egypt's Safeguard Regime

Throughout the period from 2012 to 2025 Egypt implemented safeguard measures through a consistent pattern of unclear legal frameworks and multiple institutions and sudden policy changes. The formal adherence of ministerial actions to Law No. 161 of 1998 and WTO obligations has not prevented four major systemic vulnerabilities that undermine actual safeguard duty implementation.

First, the vulnerability stems from judicial fragmentation which breaks down policy continuity. The 2019 billet safeguard case demonstrates how administrative courts suspend urgent trade remedies during incomplete investigations but higher courts later overturn those decisions. Long-term protective strategies face discouragement because economic courts and administrative courts and the Supreme Administrative Court lack procedural harmonization leading to legal unpredictability.

Second, the executive's inconsistent behavior damages the credibility of trade enforcement because of its erratic policy decisions. The 2021 ministerial decree terminated safeguard duties before their scheduled end although the investigation continued. The government justifies these reversals using external economic factors such as COVID-19 and inflation instead of conducting legal or evidentiary assessments thus demonstrating weak commitment to domestic industry protection.

Third, the legal hierarchy between trade remedy instruments remains unclear because safeguard measures overlap with anti-dumping responses as demonstrated by the 2017 transition from Decree No. 287/2015 to anti-dumping duties. The state implements policies based on legal demands instead of developing industrial strategies through coordinated action.

Fourth, the inefficiency of past enforcement mechanisms becomes evident through the repeated complaints and investigations that occurred in 2012, 2015, 2019 and 2025. The repetition of safeguard disputes with similar circumstances indicates previous measures failed to stop harmful imports while providing inadequate market stability. Exporters now predict with confidence that Egyptian safeguard measures will be brief and vulnerable to legal and political interventions.

The safeguard system in Egypt operates through an institutionally fragmented environment which weakens its ability to provide reliable protection to domestic markets. The safeguard mechanism risks becoming an empty symbol of trade defense policy for Egypt unless structural reforms unite the judiciary with executive decision-making authority and trade authority functions.

Ⅵ. Conclusion

This study set out to explain why Egypt's safeguard measures have been recurrently short-lived and difficult to sustain despite the presence of a seemingly complete statutory framework. Drawing on Domestic Imple- mentation Theory and Legal Fragmentation Theory, the analysis showed that outcomes are driven less by an absence of legal authority and more by two mutually reinforcing factors: (i) textual and procedural misalignments between Law No. 161 of 1998 (and its Executive Regulations) and the WTO Agreement on Safeguards (SGA); and (ii) overlapping judicial review by the State Council and the Economic Courts, which enables parallel challenges, interim stays, and divergent appellate trajectories. Within this setting, political-economic constraints shape policy choices at key junctures, further depressing predictability.

Doctrinally, several gaps in the domestic framework help explain Egypt's enforcement volatility. The threshold for provisional measures is lower than the SGA's "critical circumstances" standard; non-attribution analysis and the "unforeseen developments" lineage of GATT XIX remain under-specified in statute and practice; and progressive liberalization requirements for definitive measures are not made explicit. Procedurally, the domestic rules provide timelines but do not insulate ongoing investigations from premature interruption through interim judicial orders. Together, these drafting choices invite frequent resort to provisional action, followed by termination or policy pivot before a stable final measure can mature.

Institutionally, safeguard enforcement unfolds inside a dual-track judiciary. The State Council reviews challenges to executive regulatory action; the Economic Courts hear disputes with commercial or private-party contours. At the margins, this allocation fosters jurisdictional overlap and forum selection, increasing the probability of parallel proceedings with different appellate endpoints (Supreme Administrative Court vs. Court of Cassation) and, where necessary, recourse to the Supreme Constitutional Court to resolve positive conflicts. The practical effect is to lengthen timelines and raise the risk of contradictory interim outcomes in a policy domain that depends on uninterrupted investigation and sequenced remedies.

The steel sector case study makes these dynamics concrete. Across four waves (2012; 2015–2017; 2019–2022; 2025 HRC), authorities repeatedly relied on provisional measures under mounting market stress, then faced early judicial suspensions, executive reversals, or a strategic shift to other trade-defense instruments (e.g., anti-dumping). Even when higher courts later validated the underlying ministerial action, the window for effective relief had narrowed, and the policy cycle reset. These patterns reflect not a single failure point but the interaction of drafting gaps, multi-forum review, and political-economic constraints during implementation.

Methodologically, the paper contributed a combined approach: clause-by-clause doctrinal comparison (Law 161/1998 vs. SGA), process-tracing of practice (1995–2025), and institutional mapping of adjudicatory pathways. This triangulation clarifies where domestic texts conform to—and diverge from—WTO disciplines, and how Egypt’s review architecture channels those divergences into real-world volatility. The framework is portable and can be replicated for other sectors (e.g., aluminum, fertilizers) and for peer jurisdictions where multi-forum review intersects with trade-remedy design.

In sum, Egypt’s challenge is not the absence of tools but the misalignment of texts, procedures, and review architecture. Understanding how these interfaces generate volatility offers a clearer explanation of why safeguards have been reactive and short-lived—and provides a diagnostic template for future empirical and comparative research.

References

Books

Hoekman, Bernard M., and Petros C. Mavroidis. *The World Trade Organization: Law, Economics, and Politics.* 2nd ed. London: Routledge, 2016.

Higgins, Rosalyn. *The Development of International Law Through the Political Organs of the United Nations.* Oxford: Clarendon Press, 1963.

Lauterpacht, Hersch. *International Law and Human Rights.* London: Stevens, 1950.

Slaughter, Anne-Marie. *A New World Order.* Princeton, NJ: Princeton University Press, 2004.

Academic Articles

Burke-White, William W. “International Legal Pluralism.” Michigan Journal of International Law 25 (2004): 963–79.

Klabbers, Jan. “The Relative Autonomy of International Law: The Forgotten Politics of Interdisciplinarity.” Journal of International Law and International Relations 1 (2005): 35–50.

Koh, Harold Hongju. “Why Transnational Law Matters.” Penn State International Law Review 24, no. 4 (2006): 745–63.

Koskenniemi, Martti, and Päivi Leino. “Fragmentation of International Law?” Leiden Journal of International Law15 (2002): 553–79.

Putnam, Robert D. “Diplomacy and Domestic Politics: The Logic of Two-Level Games.” International Organization 42, no. 3 (1988): 427–60.

Raustiala, Kal. “Compliance and Effectiveness in International Regulatory Cooperation.” Case Western Reserve Journal of International Law 32 (2000): 387–440.

Trachtman, Joel P. “The International Economic Law Revolution.” University of Pennsylvania

Journal of International Economic Law 17 (1996): 33–61.

Court Cases and Laws

Court of Cassation (Egypt). Appeal No. 17051 of Judicial Year 82. Judgment of January 11, 2016.

Egypt. Law No. 120 of 2008 on the Establishment of Economic Courts. Official Gazette No. 21 bis.

Egypt. Law No. 156 of 2024 Amending the Economic Courts Law. Official Gazette No. 27 bis (July 10, 2024).

Egypt. Law No. 161 of 1998 on the Protection of the National Economy from Injurious Effects of Unfair Practices in International Trade. Official Gazette, July 5, 1998.

Egypt. Ministerial Decree No. 346 of 2019. Official Gazette No. 88, April 15, 2019.

Egypt. Ministerial Decree No. 569 of 2008 Amending the Executive Regulation of Law No. 161/1998. Official Gazette, June 22, 2008.

Supreme Constitutional Court (Egypt). Case No. 2 of Judicial Year 44. Judgment of July 2025.

Supreme Constitutional Court (Egypt). Case No. 3 of Judicial Year 40. Judgment of November 3, 2018.

Supreme Constitutional Court (Egypt). Case No. 25 of Judicial Year 42. Judgment of September 4, 2021.

Research Reports and Others

International Law Commission. “Report of the Study Group of the International Law Commission on the Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law.” Finalized by Martti Koskenniemi.

UN Doc. A/CN.4/L.682, 2006.

World Trade Organization. Agreement on Safeguards. WT/DS121/AB/R, 1999.

World Trade Organization. Dispute Settlement – Index of Disputes by Agreement. Accessed June 12, 2025. https://www.wto.org/english/tratop_e/dispu_e/dispu_agreements_index_e.htm.

WTO Committee on Safeguards. "Notification of Final Safeguard Measure Proposed: Egypt – Steel Rebar (Notification No. N8EGY7)." April 16, 2015.

WTO Committee on Safeguards. "Notification of Provisional Safeguard Measure: Egypt – Steel Rebar (Notification No. N7EGY11)." April 12, 2019.

WTO Committee on Safeguards. "Notification of Safeguard Investigation Initiated: Egypt – Hot Rolled Flat Steel (Notification No. N6EGY16)." April 29, 2025.

WTO Committee on Safeguards. "Notifications Under Article 12 of the Agreement on Safeguards" (Notification No. N6EGY9). December 5, 2012.

WTO Panel Report. United States — Steel Safeguards. WT/DS248/R et al., 2003.

Internet and Other Sources

Al Borsa Newspaper. "Steel Rebar is Expected to Exceed 8,000 Pounds by the End of October." October 23, 2016. In Arabic. https://www.alborsaanews.com/2016/10/23/915060.

Cairo Chamber of Commerce. "Complaint." September 23, 2012. In Arabic. https://www.cairochamber.org.eg/Page.aspx?Id=223.

CNN Arabic. "Drop in Market Value of Ezz Steel After Factory Malfunction... Experts Explain." November 29, 2024. In Arabic. https://arabic.cnn.com/middle-east/article/2024/11/29/egypt-market-value-ezz-steel-a-factory-malfunction-experts.

EconomyPlus. "Government Decisions Threaten Steel Investors' Expansion Plans." May 8, 2019.

In Arabic. https://economyplusme.com/en/8638/.

SteelRadar. "Egypt Opens Safeguard Investigation on Hot Rolled Flat Steel." April 27, 2025. https://www.steelradar.com/en/egypt-launches-protective-measures-against-hot-rolled-flat-steel-imports/.

[국문초록]

이집트의 세이프가드 조치와 법적 단절: 철강 산업에 관한 사례 연구

세리프 헤이칼

본 논문은 표면적으로 완비된 국내 제도적 틀에도 불구하고, 이집트의 세이프가드 조치가 왜 사후적이며 단기적으로 그치는 경향을 보이는지를 분석한다. 핵심 주장은, 이러한 결과가 권한의 부재보다는 (i) 1998년 제정된 법률 제161호(및 그 시행규칙)와 WTO 세이프가드협정(SGA) 간의 문언적·절차적 불일치, 그리고 (ii) 평행적 쟁송, 잠정 집행정지, 불일치한 항소 경로를 가능하게 하는 국가평의회(State Council)와 경제법원(Economic Courts) 간의 중첩적 심사 관할에서 기인한다는 점이다.

분석의 이론적 틀은 상호 보완적인 두 가지 이론에 기초한다. 국내이행이론(Domestic Implementation Theory)은 국제적 의무가 입법·행정·사법 영역에 걸쳐 어떻게 내재화되는지를 평가하는 데 활용되고, 법적 분절화 이론(Legal Fragmentation Theory)은 관할과 절차의 증식이 어떻게 불확실성과 법정 선택(forum selection)을 야기하는지를 조명한다. 이 두 틀은, 형식적 권한이 존재하더라도 조문상의 결함과 다중 심사 체계가 예측 가능성을 저해하는 원인을 설명한다.

방법론적으로, 본 연구는 다음 세 가지 접근을 통합한다. (1) 제161호 법률과 SGA의 조문별 비교법적·교의법적 분석(예: SGA 제6조의 ‘중대한 사정(critical circumstances)’ 요건과 국내의 ‘일응(prima facie)’ 개시 기준, 비귀속(non-attribution) 및 ‘예기치 못한 사태(unforeseen developments)’, 투명성 및 점진적 자유화 요건 등), (2) WTO 통보와 조치 결과를 통한 1995~2025년 이집트 세이프가드 운용사례의 과정추적(process-tracing), (3) 국가평의회, 경제법원, 헌법재판소 간의 재판 경로에 대한 제도적 구조 분석이다.

부문별 사례연구로서 철강 분야(2012년, 2015~2017년, 2019~2022년, 2025년 열연코일(HRC) 조사)는 이러한 동학을 가장 명확히 보여준다. 반복된 잠정조치, 조기 종료, 제한적인 최종조치는 관할 중첩과 심사 절차의 영향으로 사실인정과 구제조치의 단계적 시행이 방해되는 양상과 일치한다.

주요 발견은 세 가지이다. 첫째, 개시 기준과 같은 조문상의 결함과 조기 사법개입 가능성은 단기적 보호와 재신청의 반복을 설명한다. 둘째, 상이한 항소 종착점을 갖는 이중 사법제도는 SGA가 기대하는 '조사 지속성 및 사후적 심사' 구조에 비해 절차 기간을 체계적으로 연장시키고 상반된 판결 가능성을 높인다. 셋째, 이집트의 세이프가드 운용은 SGA에 따른 협의·보상 절차와의 연계가 제한된 채 주로 국내 지향적으로 유지되고 있다.

본 논문의 학문적 기여는 두 가지이다. 첫째, 국내 법령이 WTO 요건과 일치하거나 상이한 지점을 구체적으로 제시하고, 둘째, 이집트의 사법 구조가 이러한 불일치와 어떻게 상호작용하여 변동성을 초래하는지를 규명한다. 결론에서는 정치·경제적 제약을 고려하면서도, 법령 정비와 심사 경로의 합리화를 통한 개선 방안을 제시한다.

주요어: 세이프가드 조치, 무역구제, 이집트, 철강 산업, WTO 법, 국내 이행, 법적 분절화, 제도적 갈등, 사법심사, 경제법원, 행정사법, 법률 제161호(1998), 포럼 쇼핑, 정책 불일치, 무역 방어 집행.

[Abstract]

Safeguard Measures and Legal Fragmentation in Egypt: A Case Study of the Steel Sector

Sherif Heikal

This article explains why Egypt's safeguard measures have been reactive and short-lived despite a facially complete domestic framework. The core claim is that outcomes are driven less by a lack of authority than by (i) textual and procedural misalignments between Law No. 161 of 1998 (and its Executive Regulations) and the WTO Agreement on Safeguards, and (ii) overlapping review by the State Council and the Economic Courts that enables parallel challenges, interim stays, and inconsistent appellate paths.

The analysis is grounded in two complementary theories. Domestic Implementation Theory is used to assess how international obligations are internalized across legislation, administration, and courts; Legal Fragmentation Theory illuminates how proliferating mandates and procedures generate uncertainty and forum selection. Together they frame why drafting gaps and multi-forum oversight depress predictability even when formal authority exists.

Methodologically, the paper integrates: (1) clause-by-clause doctrinal comparison of Law 161/1998 with the SGA (e.g., SGA Article 6's "critical circumstances" vs. a prima facie domestic threshold; non-attribution and "unforeseen developments"; transparency and progressive liberalization); (2) process-tracing Egypt's safeguard practice (1995–2025) via WTO notifications and outcomes; and (3) institutional mapping of adjudicatory pathways across the State Council, Economic Courts, and the Supreme Constitutional Court.

As a sectoral case study, steel provides the clearest window into these dynamics (2012, 2015–2017, 2019–2022, and the 2025 HRC investigation): repeated provisional actions, early terminations, and limited definitive measures coincide with jurisdictional overlap and review sequences that interrupt fact-finding and remedy phasing.

Findings are threefold. First, drafting gaps (for example, initiation thresholds) and exposure to premature judicial interruption explain cycles of short-term protection and re-filings. Second, the dual-track judiciary—with different appellate endpoints—systematically lengthens timelines and increases the risk of contradictory rulings relative to the SGA's expectation of uninterrupted investigation and post-determination review. Third, Egypt's safeguard practice remains primarily domestically oriented, with limited engagement in consultations/compensation under the SGA.

The contribution is twofold: it specifies where domestic texts conform to—and diverge from—WTO requirements, and it shows how Egypt's judicial architecture interacts with those divergences to produce volatility. The paper closes with targeted reforms to tighten drafting and rationalize review pathways, while acknowledging political-economic constraints that shape enforcement choices.

Key words: Safeguard Measures, Trade Remedies, Egypt, Steel Sector, WTO Law, Domestic Implementation, Legal Fragmentation, Institutional Conflict, Judicial Review, Economic Courts, Administrative Judiciary, Law No. 161 of 1998, Forum Shopping, Policy Inconsistency, Trade Defense Enforcement.