

CHAPTER 7 TRADE REMEDIES

Section A: General Trade Remedies

ARTICLE 7.1: ANTI-DUMPING AND COUNTERVAILING MEASURES

1. Except as otherwise provided by paragraph 3 of this Article, each Party retains its rights and obligations under the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (GATT 1994) contained in Annex 1 A to the WTO Agreement.
2. Each Party retains its rights and obligations under *the Agreement on Subsidies and Countervailing Measures* contained in Annex 1A to the WTO Agreement.
3. Neither Party shall use a methodology based on surrogate value of a third country for the purpose of determining normal value when calculating dumping margin in an anti-dumping investigation.

ARTICLE 7.2: GLOBAL SAFEGUARD MEASURES

Each Party retains its rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

Section B Transitional Safeguard Measures

ARTICLE 7.3: APPLICATION OF A TRANSITIONAL SAFEGUARD MEASURE

1. During the transition period only, if as a result of the reduction or elimination of a customs duty provided under this Agreement, any product originating in a Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to domestic industry producing a like or directly competitive product, the importing Party may apply a transitional safeguard measure described in paragraph 2 of this Article.
2. If the conditions in paragraph 1 of this Article are met, a Party may:
 - (a) suspend the further reduction of any rate of customs duty on the product provided for under this Agreement; or

- (b) increase the rate of customs duty on the product to a level not exceeding the lesser of:
 - (i) the most-favored-nation (hereinafter referred to as “MFN”) applied rate of duty in effect on the product on the day immediately preceding the date of entry into force of this Agreement; or
 - (ii) the MFN applied rate of customs duty in effect on the product on the date on which the transitional safeguard measure is applied.

ARTICLE 7.4: SCOPE AND DURATION OF TRANSITIONAL SAFEGUARD MEASURES

1. From the entry into force of this Agreement in relation to a particular product, transitional period of the transitional safeguard measure shall be taken for a period not exceeding three years.
2. Neither Party may apply or maintain a transitional safeguard measure:
 - (a) except to the extent and for such time as may be necessary to prevent or remedy serious injury, and to facilitate adjustment; or
 - (b) for a period exceeding one year, except that the period may be extended by up to one year, if the competent authorities determine, in conformity with the procedures set out in section B (Transitional Safeguard Measures) of this Chapter, that the transitional safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting.
 - (c) without prejudice of subparagraph (a) and (b) of this paragraph, regardless of its duration, such measure shall terminate at the end of the transitional period.
3. In order to facilitate adjustment in a situation where the transitional safeguard measure is extended, the Party extending the measure shall liberalize it during the period of extension.
4. No transitional safeguard measure shall be applied to the import of a product, which has previously been subject to such a measure.
5. Neither Party may apply a transitional safeguard measure on a product that is subject to a measure that the Party has applied pursuant to Article XIX of GATT 1994 and the WTO Safeguard Agreement, and neither Party may maintain a transitional

safeguard measure on a product that becomes subject to a measure that the Party imposed pursuant to Article XIX of GATT 1994 and the WTO Safeguard Agreement.

6. On the termination of a transitional safeguard measure, the Party that applied the transitional safeguard measure shall apply the rate of customs duty set out in its schedule to Annex 1-A of this Agreement on the date of termination as if the transitional safeguard measure has never been applied.

ARTICLE 7.5: INVESTIGATION PROCEDURES

Transitional safeguard measure shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the related procedures laid down in the WTO Agreement on Safeguard.

ARTICLE 7.6: PROVISIONAL MEASURE

1. In critical circumstances where delay would cause damage which it would be difficult to repair, a Party may take a provisional transitional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury to a domestic industry.

2. Before taking a provisional measure, the applying Party shall notify the other Party and shall, on request of the other Party, initiate consultations after applying such a measure.

3. The duration of a provisional transitional safeguard measure shall not exceed 200 days, during which period the pertinent requirement of Article 7.3, 7.4 and 7.5 shall be met. Such a provisional transitional safeguard measure should take the form of a suspension of the further reduction of any rate of duty provided for under this Agreement on the product or an increase in the customs duties not exceeding the lesser of the rates in Article 7.3.2 (b). Any additional customs duties or guarantees collected shall be promptly refunded if the subsequent investigation referred to in Article 7.5 determines that increased imports have not caused or threatened to cause serious injury to a domestic industry.

4. The duration of any such provisional transitional safeguard measure shall be counted as a part of the initial period and any extension of a transitional safeguard measure.

ARTICLE 7.7: NOTIFICATION AND CONSULTATION

1. A Party shall immediately notify the other Party, in writing on:
 - (a) initiating a transitional safeguard investigation;
 - (b) making a finding of serious injury or threat thereof caused by increased imports;
 - (c) taking a decision to apply or extend a transitional safeguard measure; and
 - (d) taking a decision to liberalize a transitional safeguard measure previously applied, in accordance with Article 7.4.3.

2. In making the notification referred to in subparagraphs (b) and (c) of paragraph 1 of this Article, the Party applying a transitional safeguard measure shall provide the other Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, a precise description of the product involved, the proposed transitional safeguard measure, the proposed date of introduction and its expected duration. In the case of an extension of a transitional safeguard measure, the written results of the determination required by Article 7.5, including evidence that the continued application of the measure is necessary to prevent or remedy serious injury and that the industry is adjusting shall also be provided.

3. A Party proposing to apply or extend a transitional safeguard measure shall provide adequate opportunity for prior consultations with the other Party, with a view to, *inter alia*, reviewing the information provided under paragraph 2 of this Article, exchanging views on the transitional safeguard measure and, in the case of extending a transitional safeguard measure reaching an agreement on compensation as set forth in Article 7.8.1.

4. A party shall provide to the other Party a copy of the publicly available version of the report of its competent authorities in accordance with WTO Agreement on Safeguards as soon as it is available.

ARTICLE 7.8: COMPENSATION

1. A party extending a transitional safeguard measure shall, in consultation with the other Party, provide to the other Party mutually agreed compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. Such consultations shall begin within 30 days of the extension of the transitional safeguard measure.

2. If the Parties are unable to reach an agreement on compensation within 30 days after the consultation commences, the exporting Party shall be free to suspend the

application of substantially equivalent concessions to the trade of the Party extending the transitional safeguard measure.

3. A Party shall notify the other Party in writing at least 30 days before suspending concession under paragraph 2 of this Article.

4. The extending Party's obligation to provide compensation under paragraph 1 and the other Party's right to suspend concessions under paragraph 2 of this Article shall terminate on the date of the termination of the transitional safeguard measure.