

## **CHAPTER 7**

### **TRADE REMEDIES**

#### **Section A: Anti-dumping and Countervailing Duties**

##### **Article 7.1: Anti-dumping**

1. Each Party maintains its rights and obligations under Article VI of GATT 1994 and the AD Agreement.
2. This Agreement does not confer any additional rights or obligations on either Party with regard to actions taken pursuant to Article VI of GATT 1994 and the AD Agreement.
3. Neither Party shall have recourse to dispute settlement under Chapter 18 (Dispute Settlement) for any matter arising under this Article.

##### **Article 7.2: Subsidies and Countervailing Measures**

1. Each Party maintains its rights and obligations under Articles VI and XVI of GATT 1994 and the SCM Agreement.
2. Unless otherwise provided in paragraph 3, this Agreement does not confer any additional rights or obligations on either Party with regard to actions taken pursuant to Articles VI and XVI of GATT 1994 and the SCM Agreement.
3. When a Party receives a properly documented application and before initiating an investigation under the SCM Agreement, the Party shall notify in writing the other Party and allow for a 20-day period for consultations with a view to finding a mutually acceptable solution.
4. Neither Party shall have recourse to dispute settlement under Chapter 18 (Dispute Settlement) for any matter arising under this Article, except for the period for consultations established in paragraph 3.

#### **Section B: Safeguard Measures**

##### **Article 7.3: Definitions**

For the purposes of this Section:

**domestic industry** means, with respect to an imported good, the producers as a whole of the like or directly competitive good operating within the Area of a Party, or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

**Safeguards Agreement** means the Agreement on Safeguards, set out in Annex 1A to the WTO Agreement;

**serious injury** means a significant overall impairment in the position of a domestic industry;

**threat of serious injury** means serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent;

**transition period** means, in relation to a particular good, the three-year period beginning on the date of entry into force of this Agreement, except where the tariff reduction or elimination for the good occurs over a longer period, in which case the transition period shall be the period of the staged tariff reduction or elimination for that good set out in Annex 2-B (Schedules of Tariff Commitments) of Chapter 2 (Trade in Goods); and

**transitional safeguard measure** means a measure described in Article 7.5.2.

#### **Article 7.4: Global Safeguard Measures**

1. Each Party maintains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement.
2. Unless otherwise provided in paragraph 3 and paragraph 4, this Agreement does not confer any additional rights or obligations on either Party with regard to actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.
3. A Party taking any measure pursuant to Article XIX of GATT 1994 and the Safeguards Agreement shall exclude imports of an originating good from the other Party if such imports do not in and of themselves cause or threaten to cause serious injury.
4. Each Party shall promptly notify the other Party in writing, including through electronic means, of the initiation of any global safeguard investigation and the reasons for initiation. The Party shall make such notification no later than seven days after such initiation.

#### **Article 7.5: Imposition of a Transitional Safeguard Measure**

1. A Party may, subject to the provisions of this Section, apply a transitional safeguard measure set out in paragraph 2, during the transition period only, if as a result of the

reduction or elimination of a customs duty in accordance with this Agreement, an originating good from the other Party is being imported into the Area of the 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 the domestic industry that produces a like or directly competitive good.

2. If the conditions in paragraph 1 are met, the Party may, to the minimum extent necessary to prevent or remedy serious injury and to facilitate adjustment:

- (a) suspend the further reduction of any rate of customs duty provided for under this Agreement on the good; or
- (b) increase the rate of customs duty on the good to a level not exceeding the lesser of:
  - (i) the most-favoured-nation applied rate of customs duty in effect at the time the measure is applied; or
  - (ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement.

3. Neither Party shall apply or maintain tariff rate quotas nor quantitative restrictions as transitional safeguard measures.

4. Neither Party shall apply a transitional safeguard measure against an originating good from the other Party where the exporting Party's share of imports of the originating good in the importing Party does not exceed three per cent.

#### **Article 7.6: Investigation Procedures and Transparency Requirements**

A Party shall apply a transitional safeguard measure only following an investigation by the competent authorities of the Party in accordance with Articles 3 and 4.2 of the Safeguards Agreement. To this end, Articles 3 and 4.2 of the Safeguards Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*.

#### **Article 7.7: Standards for a Transitional Safeguard Measure**

1. A Party shall apply a transitional safeguard measure only for such period as may be necessary to prevent or remedy serious injury and to facilitate adjustment.

2. A Party shall apply a transitional safeguard measure for a period not exceeding two years. In very exceptional circumstances, the period may be extended by up to one year if the competent authority of the Party that applies the measure determines, in conformity

with the procedures set out in Article 7.6, 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 domestic industry is adjusting. The total period of application of a transitional safeguard measure, including the period of initial application and any extension thereof, shall not exceed three years.

3. Neither Party shall maintain a transitional safeguard measure beyond the expiration of the transition period.

4. In order to facilitate adjustment in a situation where the expected duration of a transitional safeguard measure is over one year, the Party applying the measure shall progressively liberalise it at regular intervals during the period of application.

5. Upon the termination of the measure, the rate of customs duty shall be the rate which would have been in effect but for the measure.

6. Neither Party shall apply a transitional safeguard measure more than once on the same good.

#### **Article 7.8: Notification and Consultation**

1. A Party shall immediately notify the other Party, in writing, including through electronic means, if it:

- (a) initiates a transitional safeguard investigation under this Chapter;
- (b) makes a finding of serious injury or threat thereof caused by increased imports, in accordance with Article 7.5; and
- (c) takes a decision to apply or extend a transitional safeguard measure.

2. A Party shall provide to the other Party a copy of the public version of the report of its competent authorities that is required under Article 7.6.

3. When a Party makes a notification pursuant to paragraph 1(c), that Party shall include in that notification:

- (a) evidence of serious injury or threat thereof caused by increased imports of an originating good from the other Party as a result of the reduction or elimination of a customs duty in accordance with this Agreement;
- (b) a precise description of the originating good subject to the transitional safeguard measure including its heading or subheading under the HS Code, on which the schedule of tariff commitments in Annex 2-B (Schedules of Tariff Commitments) of Chapter 2 (Trade in Goods) is based;

- (c) a precise description of the transitional safeguard measure;
- (d) the date of introduction of the transitional safeguard measure, its expected duration and, if applicable, a timetable for progressive liberalisation of the measure; and
- (e) in the case of an extension of the transitional safeguard measure, evidence that the domestic industry concerned is adjusting.

4. On request of the Party whose good is subject to a proceeding for the application or extension of a transitional safeguard measure under this Chapter, the other Party shall, no later than 30 days after the date of receipt of a notification referred to in paragraph 1, enter into consultations with the requesting Party to review the notification or any public notice or report that the competent investigating authority issued in connection with that proceeding, with a view to finding a mutually acceptable solution.

#### **Article 7.9: Compensation**

1. A Party applying or extending a transitional safeguard measure shall, in consultation with the other Party, provide mutually agreed trade liberalising compensation in the form of concessions that have substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the transitional safeguard measure. The Party shall provide an opportunity for those consultations no later than 30 days after the application of the transitional safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on trade liberalising compensation within 30 days, a Party against whose good the transitional safeguard measure is applied may suspend the application of substantially equivalent concessions of customs duties with respect to the same sector or other sectors. If the Party considers that it is not practicable or effective to suspend the application of concessions of customs duties, it may suspend the application of concessions or other obligations under any part of this Agreement to the trade of the other Party.

3. The Party against whose good the transitional safeguard measure is applied shall notify the other Party in writing at least 30 days before it suspends concessions in accordance with paragraph 2.

4. The obligation to provide compensation under paragraph 1 and the right to suspend concessions under paragraph 2 shall terminate on the date of the termination of the transitional safeguard measure.

#### **Article 7.10: Relation to Other Safeguard Measures**

Neither Party shall apply or maintain the following measures under this Chapter,

with respect to the same good, at the same time:

- (a) a transitional safeguard measure;
- (b) a measure taken under Article 7.4.