

## **Chapter Eight**

### **Trade Remedies**

#### **Section A - Safeguards**

##### **Article 8.1: Imposition of a Safeguard Measure**

1. A Party may impose a safeguard measure described in paragraph 2, during the transition period only, if as a result of the reduction or elimination of a duty pursuant to this Agreement,<sup>1</sup> a good originating in the territory of the other Party is being imported into the Party's territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good.

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

- (a) suspend the further reduction of any rate of duty provided for under this Agreement on the good; or
- (b) increase the rate of duty on the good to a level not to exceed the lesser of
  - (i) the most-favored-nation (MFN) applied rate of duty in effect at the time the action is taken, or
  - (ii) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement.<sup>2</sup>

##### **Article 8.2: Standards for a Safeguard Measure**

1. A Party may apply a safeguard measure, including any extension thereof, for no longer than three years. Regardless of its duration, such measure shall terminate at the end of the transition period.

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<sup>1</sup> The Parties note that many of Chile's products received duty-free treatment under the U.S. Generalized System of Preferences prior to the entry into force of this Agreement.

<sup>2</sup> The Parties understand that neither tariff rate quotas nor quantitative restrictions would be a permissible form of safeguard measure.

2. In order to facilitate adjustment in a situation where the expected duration of a safeguard measure is over one year, the Party applying the measure shall progressively liberalize it at regular intervals during the period of application.
3. Neither Party may impose a safeguard measure more than once on the same good.
4. Neither Party may impose a safeguard measure on a good that is subject to a measure that the Party has imposed pursuant to Article XIX of GATT 1994 and the Safeguards Agreement, and neither Party may continue maintaining a safeguard measure on a good that becomes subject to a measure that the Party imposes pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.
5. On the termination of a safeguard measure, the rate of duty shall be no higher than the rate that, according to the Party's Schedule to Annex 3.3 (Tariff Elimination), would have been in effect one year after the imposition of the measure. Beginning on January 1 of the year following the termination of the action, the Party that has applied the measure shall:
  - (a) apply the rate of duty set out in the Party's Schedule to Annex 3.3 (Tariff Elimination) as if the safeguard measure had never been applied; or
  - (b) eliminate the tariff in equal annual stages ending on the date set out in the Party's Schedule to Annex 3.3 (Tariff Elimination) for the elimination of the tariff.

**Article 8.3: Investigation Procedures and Transparency Requirements**

1. A Party shall impose a safeguard measure only following an investigation by the Party's competent authorities in accordance with Articles 3 and 4.2(c) of the Safeguards Agreement; and to this end, Articles 3 and 4.2(c) of the Safeguards Agreement are incorporated into and made a part of this Agreement, *mutatis mutandis*.
2. In the investigation described in paragraph 1, a Party shall comply with the requirements of Article 4.2(a) of the Safeguards Agreement; and to this end, Article 4.2(a) of the Safeguards Agreement is incorporated into and made a part of this Agreement, *mutatis mutandis*.

**Article 8.4: Notification**

1. A Party shall promptly notify the other Party, in writing, on:
  - (a) initiating an investigation under Article 8.3;

- (b) making a finding of serious injury or threat thereof caused by increased imports under Article 8.1;
  - (c) taking a decision to impose or extend a safeguard measure; and
  - (d) taking a decision to modify a safeguard measure previously undertaken.
2. A Party shall provide to the other Party a copy of the public version of the report of its competent authorities required under Article 8.3(1).

**Article 8.5: Compensation**

1. The Party taking a safeguard measure shall, in consultation with the other Party, provide to the other Party mutually agreed trade liberalizing 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 imposition of the measure.
2. If the Parties are unable to reach agreement on compensation within 30 days after the consultations commence, the exporting Party shall be free to suspend the application of substantially equivalent concessions to the trade of the Party applying the safeguard measure.
3. A Party shall notify the other Party in writing at least 30 days before suspending concessions under paragraph 2.
4. The obligation to provide compensation under paragraph 1 and the right to suspend substantially equivalent concessions under paragraph 2 shall terminate on the later of: (a) the termination of the safeguard measure; or (b) the date on which the rate of duty returns to the rate of duty set out in the Party's Schedule to Annex 3.3 (Tariff Elimination).

**Article 8.6: Global Actions**

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement.
2. This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.

## **Article 8.7: Definitions**

For 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 or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of such good;

**safeguard measure** means a safeguard measure described in Article 8.1(2);

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

**substantial cause** means a cause which is important and not less than any other cause;

**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; and

**transition period** means the 10-year period beginning on the date of entry into force of this Agreement, except that **transition period** shall mean the 12-year period beginning on the date of entry into force of this Agreement in any case in which a safeguard measure is applied against an agricultural good and the Schedule to Annex 3.3 (Tariff Elimination) of the Party applying the measure provides for the Party to eliminate its tariffs on the good over 12 years.

## **Section B - Antidumping and Countervailing Duties**

### **Article 8.8: Antidumping and Countervailing Duties**

1. Each Party retains its rights and obligations under the WTO Agreement with regard to the application of antidumping and countervailing duties.
2. No provisions of this Agreement, including the provisions of Chapter Twenty-Two (Dispute Settlement), shall be construed as imposing any rights or obligations on the Parties with respect to antidumping or countervailing duty measures.