Chapter 2
Trade in Goods

Article 11
Definitions

For the purposes of this Chapter:

(a) "bilateral safeguard measure" means a bilateral safeguard measure provided for in paragraph 2 of Article 20;

(b) "customs duty on exports" means any duty and a charge of any kind, including any form of surtax or surcharge, imposed in connection with the exportation of a product, but does not include any fee or other charge commensurate with the cost of services rendered, imposed consistently with the provisions of Article VIII of the GATT 1994;

(c) "customs duty on imports" means any duty and a charge of any kind, including any form of surtax or surcharge, imposed in connection with the importation of a product, but does not include any:

  (i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994, in respect of like products or directly competitive or substitutable products of the customs territory of a Party, or in respect of products from which the imported products have been manufactured or produced in whole or in part;

  (ii) anti-dumping or countervailing duty applied pursuant to the laws and regulations of a Party and applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement; or

  (iii) fee or other charge commensurate with the cost of services rendered, imposed consistently with the provisions of Article VIII of the GATT 1994;

(d) “customs value of products” means the value of products for the purposes of levying *ad valorem* customs duties on imports;

(e) “domestic industry” means the producers as a whole of the like or directly competitive products operating in the customs territory of a Party, or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products;

(f) “export subsidies” means export subsidies listed in subparagraphs 1(a) to 1(f) of Article 9 of the Agreement on Agriculture in Annex 1A to the WTO Agreement (hereinafter referred to as “the Agreement on Agriculture”);

(g) “originating product” means a product which qualifies as an originating product under Annex II;

(h) “serious injury” means a significant overall impairment in the position of a domestic industry; and

(i) “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.

Article 12
Scope

This Chapter shall apply, as specified therein, to any product traded between the customs territories of the Parties, falling within any chapter of the Harmonized System.

Article 13
Classification of Products

The classification of products traded between the customs territories of the Parties shall be in conformity with the Harmonized System.

Article 14
National Treatment

Each Party shall accord national treatment to the products of the customs territory of the other Party in accordance with Article III of the GATT 1994, which is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 15
Customs Duty on Imports

1. Except as otherwise provided for in this Agreement, each Party shall eliminate or reduce its customs duties on imports on originating products of the Party and the other Party, imported from the customs territory of the other Party, in accordance with the terms and conditions set out in its Schedule in Annex I.

2. In cases where its most-favoured-nation applied rate of customs duty on imports on a particular product is lower than the rate of customs duty on imports to be applied in accordance with paragraph 1 on an originating product which is classified under the same tariff line as that particular product, each Party shall apply the lower rate with respect to that originating product.

3. Except as otherwise provided for in this Agreement, neither Party shall increase any customs duty on imports on originating products of the Party and the other Party, imported from the customs territory of the other Party, above the rate to be applied in accordance with the terms and conditions set out in its Schedule in Annex I.

Article 16
Customs Duty on Exports

Neither Party shall introduce or maintain any customs duty on exports on products exported from the customs territory of the Party into the customs territory of the other Party.

Article 17
Customs Valuation

For the purposes of determining the customs value of products traded between the customs territories of the Parties, the provisions of Part I of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement (hereinafter referred to as "the Agreement on Customs Valuation"), which is hereby incorporated into and made part of this Agreement, *mutatis mutandis*, shall apply.

Article 18
Import and Export Restrictions

Each Party shall ensure that no prohibition or restriction other than customs duties on imports and customs duties on exports inconsistent with its obligations under Article XI of the GATT 1994 and other relevant provisions under the WTO Agreement are introduced or maintained in the customs territory of the Party on the importation of any product of the customs territory of the other Party or on the exportation or sale for export of any product destined for the customs territory of the other Party.

Article 19
Export Subsidies

Unless otherwise provided for in Annex I, no export subsidies shall be introduced or maintained in the customs territory of a Party on any agricultural product which is listed in Annex 1 to the Agreement on Agriculture.

Article 20
Bilateral Safeguard Measures

1. Subject to the provisions of this Article, a Party may apply a bilateral safeguard measure, to the minimum extent necessary to prevent or remedy serious injury to its domestic industry and to facilitate adjustment thereof, if an originating product of the other Party, as a result of the elimination or reduction of a customs duty on imports in accordance with Article 15, is being imported into the customs territory of the former Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that the imports of that originating product constitute a substantial cause of serious injury, or threat of serious injury, to the domestic industry in the customs territory of the former Party.

2. A Party may, unless otherwise provided for in Annex I, as a bilateral safeguard measure:

(a) suspend the further reduction of the rate of customs duty on imports on the originating product of the other Party referred to in paragraph 1; or

(b) increase the rate of customs duty on imports on the originating product of the other Party referred to in paragraph 1 to a level not to exceed the lesser of:

(i) the most-favoured-nation applied rate of customs duty on imports in effect on the day when the bilateral safeguard measure is taken; and

(ii) the most-favoured-nation applied rate of customs duty on imports in effect on the day immediately preceding the date of entry into force of this Agreement.

3. A Party shall not apply a bilateral safeguard measure to originating products imported up to the limit of quota quantities granted under tariff rate quotas applied in accordance with the terms and conditions set out in its Schedule in Annex I.

4. A Party may apply a bilateral safeguard measure only after an investigation has been carried out by its competent authorities in accordance with the same procedures as provided for in Article 3 and paragraph 2 of Article 4 of the Agreement on Safeguards in Annex 1A to the WTO Agreement (hereinafter referred to as "the Agreement on Safeguards"). Such investigation shall in all cases be completed within one year following its date of initiation.

5. The following conditions and limitations shall apply with regard to a bilateral safeguard measure:

(a) A Party shall immediately make a written notice to the other Party upon:

(i) initiating an investigation referred to in paragraph 4 relating to serious injury, or threat of serious injury, and the reasons for it; and

(ii) taking a decision to apply or extend a bilateral safeguard measure.

(b) The Party making the written notice referred to in subparagraph (a) shall provide the other Party with all pertinent information in that notice, including:

(i) in respect of subparagraph (a)(i), in addition to the reason for the initiation of the investigation, a precise description of the originating product subject to the investigation and its subheading under the Harmonized System, the period to be covered by the investigation and the date of initiation of the investigation; and

(ii) in respect of subparagraph (a)(ii), evidence of serious injury or threat of serious injury caused by the increased imports of the originating product, a precise description of the originating product subject to the proposed bilateral safeguard measure and its subheading under the Harmonized System, a precise description of the proposed bilateral safeguard measure, and the proposed date of introduction and expected duration of the bilateral safeguard measure.

(c) A Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party with a view to reviewing the information gained from the investigation referred to in paragraph 4, exchanging views on the bilateral safeguard measure and reaching an agreement on compensation provided for in paragraph 6.

(d) No bilateral safeguard measure shall be maintained except to the extent and for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment, provided that such period of time does not exceed two years. However, in highly exceptional circumstances, a bilateral safeguard measure may be extended, provided that the total duration of the bilateral safeguard measure, including such extensions, does not exceed three years. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure exceeds one year, the Party maintaining the bilateral safeguard measure shall progressively liberalise it at regular intervals during the period of application.

(e) No bilateral safeguard measure shall be applied again to the import of a particular originating product which has been subject to such a bilateral safeguard measure, for a period of time equal to the duration of the previous bilateral safeguard measure or one year, whichever is longer.

(f) Upon termination of a bilateral safeguard measure, the rate of customs duty on imports on the originating product concerned shall be the rate which would have been in effect but for the bilateral safeguard measure.

6. (a) A Party proposing to apply or extend a bilateral safeguard measure shall provide to the other Party mutually agreed adequate means of trade compensation in the form of concessions of customs duties on imports whose value is substantially equivalent to that of the additional customs duties on imports expected to result from the bilateral safeguard measure.

(b) If the Parties are unable to agree on compensation within 30 days after the commencement of consultations pursuant to subparagraph 5(c), the Party to whose originating product the bilateral safeguard measure is applied shall be free to suspend the application of concessions of customs duties on imports under this Chapter which are substantially equivalent to the bilateral safeguard measure. The Party exercising the right of suspension may suspend the application of concessions of customs duties on imports only for the minimum period necessary to achieve the substantially equivalent effects and only while the bilateral safeguard measure is maintained.

7. Each Party shall ensure the consistent, impartial and reasonable administration of its laws and regulations relating to bilateral safeguard measures.

8. In applying a bilateral safeguard measure, each Party shall follow equitable, timely, transparent and effective procedures.

9. (a) In critical circumstances, where delay would cause damage which it would be difficult to repair, a Party may apply a provisional bilateral safeguard measure, unless otherwise provided for in Annex I, which shall take the form of a measure set out in subparagraph 2(a) or 2(b), pursuant to a preliminary determination that there is clear evidence that increased imports of an originating product of the other Party have caused serious injury or threat of serious injury to a domestic industry in the customs territory of the former Party.

(b) A Party shall make a written notice to the other Party prior to applying a provisional bilateral safeguard measure referred to in subparagraph (a). Consultations between the Parties on the application of the provisional bilateral safeguard measure shall be initiated immediately after it is applied.

(c) The duration of the provisional bilateral safeguard measure referred to in subparagraph (a) shall not exceed 200 days. During that period, the pertinent requirements of paragraph 4 shall be met. The duration of the provisional bilateral safeguard measure shall be counted as a part of the period referred to in subparagraph 5(d).

(d) Subparagraph 5(f) and paragraphs 7 and 8 shall apply, *mutatis mutandis,* to the provisional bilateral safeguard measure referred to in subparagraph (a). The customs duty on imports imposed as a result of the provisional bilateral safeguard measure shall be refunded if the subsequent investigation referred to in paragraph 4 does not determine that increased imports of an originating product of the other Party have caused serious injury or threat of serious injury to a domestic industry.

10. A written notice referred to in subparagraphs 5(a) and 9(b) and any other communication between the Parties pursuant to this Article shall be made in the English language.

11. The Parties shall review the provisions of this Article, if necessary, ten years after the date of entry into force of this Agreement or thereafter.

12. Nothing in this Chapter shall prevent a Party from applying safeguard measures to an originating product of the other Party in accordance with:

(a) Article XIX of the GATT 1994 and the Agreement on Safeguards; or

(b) Article 5 of the Agreement on Agriculture.

Article 21
Restrictions to Safeguard the Balance of Payments

1. Nothing in this Chapter shall be so construed as to prevent a Party from taking any measure for balance-of-payments purposes. A Party taking such measure shall do so in accordance with the conditions and procedures established under Article XII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement.

2. Nothing in this Chapter shall preclude the use by a Party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund.

Article 22
General and Security Exceptions

For the purposes of this Chapter, Articles XX and XXI of the GATT 1994, which are hereby incorporated into and made part of this Agreement, *mutatis mutandis*, shall apply.

Article 23
Rules of Origin

The provisions on Rules of Origin are set out in Annex II.

Article 24
Operational Procedures for Trade in Goods

Upon entry into force of this Agreement, the Joint Committee shall adopt Operational Procedures for Trade in Goods that provide detailed regulations pursuant to which the relevant authorities of the Parties shall implement their functions under this Chapter.

Article 25
General Review

The Parties shall undertake a general review of the provisions of this Chapter and the Schedules of the Parties in Annex I in the fifth calendar year following the calendar year in which this Agreement enters into force. As a result of such a review, the Parties may, if they agree, enter into negotiations on possible improvement of market access under this Chapter and the Schedules of the Parties.