

the necessary expertise relevant to the issues to be discussed may be included on an ad hoc basis.

4. The Sub-Committee may, by consensus, invite representatives of relevant entities other than the Parties with the necessary expertise relevant to the issues to be discussed to participate in the meetings of the Sub-Committee.

5. The Sub-Committee shall meet at such place and number of times as may be mutually agreed upon by the Parties.

Article 51

Publication and Enquiry Points

For the purposes of this Chapter, each Party shall:

- (a) publish on the internet or in print form all statutory and regulatory provisions and procedures applicable or enforced by its customs authority; and
- (b) designate one or more enquiry points to address enquiries from the other Party concerning customs matters, and shall make available on the Internet, or print form, information concerning procedures for making such enquiries.

CHAPTER 5

TRADE REMEDIES

Article 52

Anti-Dumping

Each Party shall retain its rights and obligations under Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement, as set out in the national legislations of both Parties.

Article 53

Subsidies and Countervailing Measures

Each Party shall retain its rights and obligations under Articles VI and XVI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement, as set out in the national legislations of the countries of the Parties.

Article 54

Bilateral Safeguard Measures

1. A Party (hereinafter referred to in this Article as “the affected Party”) shall have the right to apply bilateral safeguard measures on an originating good of the country of the other Party if, as a result of the reduction or elimination of a customs duty in accordance with Article 14,

such originating good is being imported into the territory of the country of a Party in such increased quantities, in absolute terms, or relative to domestic production and under such conditions as to cause serious injury or threat of serious injury to domestic industry producing a like or directly competitive good. The affected Party may:

- (a) suspend the further reduction of any rate of customs duty on the originating good provided for under this Agreement; or
- (b) increase the rate of customs duty on the originating good to a level not exceeding the most-favoured-nation applied rate of customs duty on the originating good in effect at the time the bilateral safeguard measure is taken.

2. The affected Party shall have the right to apply bilateral safeguard measures on an originating good within the transition period for that originating good. The transition period for a good shall begin from the date of entry into force of this Agreement and end five years from the date of completion of tariff reduction and, where relevant, elimination for that good.

3. In applying bilateral safeguard measures, the Parties shall adopt the rules for the application of safeguard measures, including provisional measures, as provided under the Agreement on Safeguards in Annex 1A to the WTO Agreement (hereinafter referred to as “the Agreement on Safeguards”), with the exception of the quantitative restriction measures set out in Article 5, and Articles 9, 12, 13 and 14 of the Agreement on Safeguards. As such, all other provisions of the Agreement on Safeguards shall, *mutatis mutandis*, be incorporated into and form an integral part of this Agreement.

4. Notwithstanding paragraph 3 of this Article, the following conditions and limitations shall apply to an investigation or a bilateral safeguard measure:

- (a) The affected Party shall immediately deliver a written notice to the other Party upon:
 - (i) initiating an investigatory process relating to serious injury or threat thereof and the reasons for it;
 - (ii) making a finding of serious injury or threat thereof caused by increased imports; and
 - (iii) taking a decision to apply or extend a bilateral safeguard measure.
- (b) In making the notifications referred to in subparagraphs (ii) and (iii) of paragraph (a), the affected Party proposing to

apply a bilateral safeguard measure shall provide the other Party with all pertinent information, which shall include:

- (i) evidence of serious injury or threat thereof caused by the increased imports;
- (ii) precise description of the originating good involved and the proposed bilateral safeguard measure; and
- (iii) proposed date of introduction and expected duration.

The affected Party proposing to apply a bilateral safeguard measure may be requested by the other Party to provide additional information as it may consider necessary and the affected Party shall respond accordingly. In the case of an extension of a bilateral safeguard measure, evidence that the industry concerned is adjusting shall also be provided.

- (c) The affected Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party as far in advance of taking or extending any such bilateral safeguard measure as practicable, with a view to reviewing the information arising from the investigation, exchanging views on the proposed bilateral safeguard measure and reaching an agreement on compensation set out in paragraph 8 of this Article.
- (d) The provisions on notification in this Article shall not require any Party to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private;
- (e) The affected Party shall apply the bilateral safeguard measure only following an investigation by its competent authorities in accordance with Articles 3 and 4.2(a), (b) and (c) of the Agreement on Safeguards.
- (f) An investigation shall be promptly terminated without any bilateral safeguard measure being applied if imports of the originating good represent less than 8 per cent of total imports.
- (g) Investigations shall in all cases be completed within one year following the date of initiation of the investigation.

5. Any bilateral safeguard measure may be maintained for an initial period of up to two years and may be extended for a period not exceeding one year if it is determined pursuant to the procedures referred to in paragraph 4 of this Article that the bilateral 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. Notwithstanding the duration of a bilateral safeguard measure on the good, such a bilateral safeguard measure shall terminate at the end of the transition period for that good.

6. No bilateral safeguard measure shall be taken against a particular good while a global safeguard measure in respect of that good is in place. In the event that a global safeguard measure is taken in respect of a particular good, any existing bilateral safeguard measure which is taken against that good shall be terminated prior to the imposition of a global safeguard measure.

7. On the affected Party's termination of a bilateral safeguard measure on a particular good, the tariff rate for that good shall be the rate that would have been in effect in accordance with Article 14, but for the bilateral safeguard measure.

8. The affected Party proposing to apply a bilateral safeguard measure shall provide to the other Party mutually agreed adequate means of trade liberalising 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 bilateral safeguard measure. If the Parties are unable to agree on compensation within 30 days, the Parties shall seek the good offices of the Joint Committee to determine the substantially equivalent level of concessions to that existing under this Agreement between the affected Party applying the bilateral safeguard measure and the exporting Party which would be affected by such a bilateral safeguard measure prior to any suspension of equivalent concessions. This action shall be applied only for the minimum period necessary to achieve the substantially equivalent effects.

9. The right of suspension referred to in paragraph 8 of this Article shall not be exercised for the first one year that a bilateral safeguard measure is in effect, provided that the bilateral safeguard measure has been taken as a result of an absolute increase in import and that such a bilateral safeguard measure conforms to the provision of this Chapter.

10. Each Party shall entrust determinations of serious injury or threat thereof in safeguard investigation proceedings to a competent investigating authority, subject to review by judicial or administrative tribunals, to the extent provided by national laws and regulations. Negative injury determinations shall not be subject to modification, except by such review.

11. All official communications and documentations exchanged among the Parties and to the Joint Committee relating to any bilateral safeguard measures shall be in writing and shall be in the English language.

Article 55
Global Safeguard Measures

Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards. Actions taken pursuant to Article XIX of the GATT 1994 and the Agreement on Safeguards shall not be subject to Chapter 12.

CHAPTER 6
SANITARY AND PHYTOSANITARY MEASURES

Article 56
Objectives

The objectives of this Chapter are to protect human, animal or plant life or health in the territory of the countries of the Parties, and to provide a framework to address any bilateral sanitary and phytosanitary matters so as to facilitate and increase trade between the countries of the Parties.

Article 57
Scope and Coverage

1. This Chapter applies to all sanitary and phytosanitary measures in the territories of the countries of the Parties that may, directly or indirectly, affect trade between the countries of the Parties.
2. For the purposes of this Chapter:
 - (a) “international standards, guidelines and recommendations” shall have the same meaning as in Annex A to the Agreement on the Application of Sanitary and Phytosanitary Measures in Annex 1A to the WTO Agreement (hereinafter referred to as “the SPS Agreement”);
 - (b) “sanitary and phytosanitary measure” means any measure referred to in Annex A, paragraph 1 of the SPS Agreement; and
 - (c) “trade between the Parties” refers to the trade in goods produced, processed or manufactured in the territories of the countries of the Parties.
3. This Chapter does not apply to technical regulations, standards and conformity assessment procedures as defined in the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement (hereinafter referred to as the “TBT Agreement”).