Chapter V

Trade Remedies

Article 25 Anti-Dumping and Countervailing Measures

1. The Parties maintain their rights and obligations under the *Agreement on Implementation of Article VI of the GATT 1994* and the *Agreement on Subsidies and Countervailing Measures,* which are parts of the WTO Agreement.

2. Antidumping actions taken pursuant to Article VI of GATT l994 and the *Agreement on Implementation of Article VI of the GATT 1994* or countervailing actions taken pursuant to Article VI of GATT l994 and the *Agreement on Subsidies and Countervailing Measures* shall not be subject to Chapter X (Dispute Settlement) of this Agreement.

Article 26 Global Safeguard Measures

1. The Parties maintain their rights and obligations under Article XIX of GATT l994 and the Safeguards Agreement.

2. Actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement shall not be subject to Chapter X (Dispute Settlement) of this Agreement.

Article 27 Bilateral Safeguard Measures

1. For purposes of this Section:

(a) Competent investigating authority means:
(i) in the case of China, Ministry of Commerce, or its successor; and
(ii) in the case of Pakistan, National Tariff Commission, or its successor;

(b) Domestic industry means “the producers as a whole of the like or directly competitive product operating within the territory of the Party, or those producers whose collective production of the like or directly competitive product constitutes a major proportion of the total domestic production of such product”;

(c) Serious injury means “a significant overall impairment in the position of a domestic industry”;

(d) 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

(e) Transition period means "five-year period in the first phase of customs duty reduction or elimination". With regard to transition period in the second phase, the Parties shall meet to determine it in the review of this Article.

2. During the transition period only, if as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of a Party is being imported into the other party's territory in such increased quantities, in absolute terms, and under such conditions as to constitute a substantial cause of serious injury or threat of serious injury to domestic industry producing a like or directly competitive product, the importing Party may:

(a) suspend the further reduction of any rate of customs duty on the good provided for under this Agreement; or

(b) increase the rate of customs duty on the good to a level not to exceed the lesser of

(i) The MFN applied rate of customs duty on the good in effect at the time the measure is taken; and

(ii) The MFN applied rate of customs duty on the good in effect on date of entry into force of this agreement; or

(c) in the case of a customs duty applied to a good on a seasonal basis, increase the rate of customs duty to a level not to exceed the lesser of

(i) the MFN applied rate of customs duty on the good in effect for the immediately preceding corresponding season; and

(ii) the MFN applied rate of customs duty on the good in effect on the date of entry into force of this agreement.[1]

3. The following conditions and limitations shall apply to an investigation or a measure described in Paragraph 1(a).

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

(i) initiating an investigatory process relating to serious injury or threat thereof and the reasons for it;

[1] The Parties understand that neither tariff rate quotas nor quantitative restrictions would be a permissible form of a safeguard measure

(ii) making a finding of serious injury or threat thereof caused by increased imports; and

(iii) taking a decision to apply a safeguard measure.

(b) in making the notification referred to in paragraph (a)(ii) and (a)(iii), the Party proposing to apply or extend a safeguard measure shall provide the other Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by the increased imports, precise description of the good involved and the proposed measure, proposed date of introduction and expected duration; the Party proposing to apply a measure shall also provide any additional information which the other Party considers pertinent;

(c) a Party proposing to apply a measure shall provide adequate opportunity for prior consultations with the other Party as far in advance of taking any such measure as practicable, with a view to reviewing the information arising from the investigation, exchanging views on the measure and reaching an agreement on compensation set out in Paragraph 4. The Parties shall in such consultations, review, inter alia, the information provided under paragraph (b), to determine:

(i) compliance with the other provisions of this Article;
(ii) whether any proposed measure should be taken; and
(iii) the appropriateness of the proposed measure, including consideration of alternative measures;

(d) a Party shall apply the measure only following an investigation by the competent authorities of such Party in accordance with Articles 3 and 4.2(c) of the WTO Agreement on Safeguards; and to this end, Articles 3 and 4.2(c) of the WTO Agreement on Safeguards are incorporated into and made a part of this Agreement, *mutatis mutandis*;

(e) in undertaking the investigation described in paragraph (d), a Party shall comply with the requirements of Article 4.2(a) and (b) of the WTO Agreement on Safeguards; and to this end, Article 4.2(a) and (b) are incorporated into and made a part of this Agreement, *mutates mutandis*;

(f) the investigation shall in all cases be completed within one year following its date of initiation;

(g) no bilateral safeguard measure shall be maintained:

(i) except to the extent and for such time as may be necessary to remedy serious injury and to facilitate adjustment;

(ii) for a period exceeding two years, except that in exceptional circumstances, the period may be extended by up to an additional one year, to a total maximum of three years from the date of first imposition of the measure if the investigating authorities determine in conformity with procedures set out paragraphs (a) through (g), that the 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;

(iii) beyond the expiration of the transition period, regardless of its duration or whether it has been subject to extension;

(h) no bilateral safeguard measure taken under this Article shall be applied again to the import of a product which has been subject to such a measure for a period of time equal to that during which such measure had been previously applied, provided that the period of non-application is at least two years;

(i) 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;

(j) upon the termination of the safeguard measure under this Article, the rate of duty shall be duty set out in the Party's schedule to Annex I of this Agreement as if the measure had never been applied; and

(k) within 5 years after entry into force of this Agreement, the Parties shall meet to review this Article with a view to determining whether there is a need to maintain any bilateral safeguard mechanism.

4. The party proposing to apply a measure described in Paragraph 2 shall provide to the other party mutually agreed adequate means of 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. If the Parties are unable to agree on compensation within 30 days in the consultations under Paragraph 3 (c), the Party against whose originating goods the measure is applied may take action having trade effects substantially equivalent to the measure applied under this Article. This action shall be applied only for the minimum period necessary to achieve the substantially equivalent effects. The right of suspension described in this paragraph shall not be exercised for the first 18 months that a bilateral safeguard measure is in effect, provided that such a measure conforms to the provisions of this Article.

5. In applying measures under this Article, each Party shall:

(a) ensure the consistent, impartial and reasonable administration of its laws, regulations, decisions and rulings governing all safeguard investigation proceedings.

(b) entrust determinations of serious injury or threat thereof in safeguard investigation proceedings to a competent investigating authority.

(c) adopt or maintain equitable, timely, transparent and effective procedures for safeguard investigation proceedings.