

CHAPTER SEVEN

TRADE REMEDIES

Section A – Safeguard Measures

Article 7.1: Article XIX of the GATT 1994 and the Safeguards Agreement

1. Each Party retains its rights and obligations under Article XIX of the GATT 1994, the Safeguards Agreement, and any successor agreements. This Agreement does not confer additional rights or obligations on the Parties with regard to measures taken pursuant to Article XIX of the GATT 1994 and the Safeguards Agreement, except that a Party taking a global safeguard measure may exclude imports of an originating good of the other Party from such measure if those imports are not a substantial cause of serious injury or threat thereof.
2. A Party shall not apply or maintain, with respect to the same good, at the same time:
- (a) a bilateral safeguard measure; and
 - (b) a measure pursuant to Article XIX of the GATT 1994 and the Safeguards Agreement.

Article 7.2: Bilateral Safeguard Measures

1. Subject to paragraph 2, if a good originating in the territory of a Party, as a result of the reduction or elimination of a customs duty provided for under this Agreement, is being imported into the territory of the other Party in such increased quantities and under such conditions that the imports of the good from that Party alone constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the Party into whose territory the good is being imported may, to the minimum extent necessary to remedy or prevent the injury:
- (a) suspend the further reduction of a rate of customs duty provided for under this Agreement on the good;

第七章

贸易救济

A部分 – 保障措施

7.1： GATT1994第十九条和保障措施协定

1. 各缔约方保留其在GATT1994第十九条、保障措施协定以及任何后续协定项下的权利和义务。本协定并未就根据GATT1994第十九条和保障措施协定采取的措施向缔约方授予额外的权利或义务，但采取全球性保障措施的一方可以将其他方的原产货物排除在该措施之外，如果这些进口不是严重损害或其威胁的实质性原因。
2. 一方不得就同一种商品同时适用或维持：
- (a) 双边保障措施；以及 (b) 根据 GATT1994 第十九条和保障措施协定采取的措施。

Article 7.2: 双边保障措施

1. 除第 2 段规定外，如果一方领土内原产的一商品，由于本协定规定的关税减让或消除而以增加的数量和条件进口到另一方领土，且该商品仅从该方进口就构成对生产同类或直接竞争性商品的国内产业造成严重损害或威胁的实质性原因，则被进口商品所在的另一方可以，为救济或防止损害所必需的最小程度，采取以下措施：
- (a) 暂停实施本协定规定的对商品关税税率的进一步降低；

- (b) increase the rate of customs duty on the good to a level not to exceed the lesser of:
 - (i) the most-favoured-nation (MFN) applied rate of customs duty in effect at the time the safeguard measure is taken; and
 - (ii) the MFN applied rate of customs duty in effect on the day immediately preceding the 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 that, for each season, does not exceed the lesser of:
 - (i) the MFN applied rate of customs duty on the good in effect for the corresponding season immediately preceding the date of application of the safeguard measure; and
 - (ii) the MFN applied rate of customs duty on the good in effect for the corresponding season immediately preceding the date of entry into force of this Agreement.

2. The following conditions and limitations apply to a proceeding that may result in the application of a safeguard measure pursuant to paragraph 1:

- (a) A Party shall, without delay, deliver to the other Party written notice of, and a request for consultations regarding, the initiation of a proceeding that could result in the application of a safeguard measure against a good originating in the territory of the other Party;
- (b) Each Party shall ensure that its competent investigating authority completes any such investigation within one year of the date of initiation of the proceeding. A Party shall apply any such safeguard measure no later than one year after the date of initiation of the proceeding, unless the Parties agree otherwise;

(b) 将商品关税税率提高至不超过以下较低者：

- (i) 最惠国待遇（MFN）项下在采取保障措施时有效的关税适用税率；以及 (ii) 在本协定生效日前立即有效的最惠国待遇项下关税适用税率；或

(c) 对于在季节性基础上对商品征收关税的情况，将关税税率提高至以下较低者水平：

- (i) 在采取保障措施时，对应季节立即生效的最惠国待遇项下商品关税适用税率；以及 (ii) 在本协定生效日前立即生效的最惠国待遇项下商品关税适用税率。

2. 以下条件和限制适用于可能导致根据第1段规定采取保障措施的程序：

- (a) 一方应当立即向另一方提供书面通知，说明可能对来自另一方领土的商品采取保障措施的诉讼的启动，并请求磋商；(b) 各缔约方应当确保其有权的调查机构在诉讼启动之日起一年内完成任何此类调查。一方应当在诉讼启动之日起一年内实施任何此类保障措施，除非缔约方另有约定；

- (c) A Party shall not maintain a safeguard measure for a period exceeding two years, except that the period may be extended by up to two years if the competent authority determines, in conformity with the procedures set out in paragraphs 1 and 2, and Article 7.3, 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. The total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years; and
- (d) On the termination of the safeguard measure, the rate of customs duty shall be the rate that, according to that Party's Schedule to Annex 2-D (Tariff Elimination) for the staged elimination of the customs duty, would have been in effect but for the safeguard measure.
3. (a) No later than 30 days after a Party applies a safeguard measure, that Party shall afford an opportunity for the other Party to consult regarding appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional customs duties expected to result from the measure. The Party applying the safeguard measure (hereinafter referred to as the "applying Party") shall provide such compensation as mutually agreed between the Parties.
- (b) If the Parties are unable to agree on compensation within 30 days after consultations begin, the Party against whose originating good the measure is applied may suspend the application of concessions with respect to originating goods of the applying Party that have trade effects substantially equivalent to the safeguard measure.
- (c) The applying Party's obligation to provide compensation pursuant to subparagraph (a) and the other Party's right to suspend concessions pursuant to subparagraph (b) shall terminate on the date the safeguard measure terminates.
4. The right of suspension referred to in paragraph 3 shall not be exercised for the first 24 months during which a safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of this Agreement.

(c) 一方不得维持超过两年的保障措施，但主管当局根据第1段和第2段规定的程序以及第7.3条确定，该保障措施继续必要以防止或纠正严重损害，并促进调整，且存在证据表明产业正在调整的情况下，该期限可延长最多两年。保障措施的总适用期限，包括初始适用期限及任何延期，不得超过四年；和

(d) 在保障措施终止时，关税税率应为根据该一方附件2-D（关税消除）的关税逐步消除时间表，在保障措施不存在的情况下本应生效的税率。

3. (a) 一方在采取保障措施之日起不超过30天内，应给予另一方机会，就通过让步形式提供的、具有实质相当贸易效应或相当于预期产生的额外关税价值的贸易自由化补偿进行磋商。采取保障措施的一方（以下简称“申请方”）应提供双方同意的此类补偿。

(b) 如果双方在磋商开始后30天内未能就补偿达成一致，则对原产货物采取措施的一方可以暂停对申请方原产货物中具有与保障措施实质相当贸易效应的让步的适用。

(c) 申请一方根据第(a)项款提供补偿的义务以及另一方根据第(b)项款暂停让步的权利，应自保障措施终止之日起终止。

4. 第3段所述的暂停权在保障措施生效后的最初24个月内不得行使，但该保障措施符合本协定规定。

Article 7.3: Provisional Safeguard Measures

1. In critical circumstances, if delay would cause damage that would be difficult to repair, a Party may apply a safeguard measure on a provisional basis pursuant to a preliminary determination by its competent investigating authority that there is clear evidence that imports of an originating good from the other Party have increased as a result of the reduction or elimination of a customs duty under this Agreement, and that those imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry.
2. Before a Party’s competent investigating authority may make a preliminary determination, that Party shall publish a public notice in its official journal setting forth how interested parties, including importers and exporters, may obtain a non-confidential copy of the application requesting a provisional safeguard measure, and shall provide interested parties with at least 20 days after the date the Party publishes the notice to submit evidence and views regarding the application of a provisional safeguard measure. A Party shall not apply a provisional safeguard measure until at least 45 days after the date its competent investigating authority initiates an investigation.
3. The duration of any provisional safeguard measure shall not exceed 200 days, during which time the applying Party shall comply with the requirements of Article 7.5.4.
4. The applying Party shall promptly refund any customs duty increases if the investigation described in Article 7.5.4 does not result in a finding that the requirements of Article 7.2.1 are met. The duration of any provisional safeguard measure shall be counted as part of the period described in Article 7.2.2(c).

Article 7.4: Application of Safeguard Measures

A safeguard measure with respect to a good may only be applied during the transition period for that good.

Article 7.5: Administration of Safeguard Measures

1. Each Party shall ensure the consistent, impartial, and reasonable administration of its laws, regulations, decisions, and rulings governing all safeguard measures.

第七章：临时保障措施

1. 在紧急情况下，如果延迟将造成难以弥补的损害，一方可依据其有权调查机构作出的初步认定，采取临时保障措施，认定存在明确证据表明，由于本协议项下关税的减少或消除，来自另一方原产货物的进口已增加，且这些进口构成对国内产业的严重损害或威胁的实质性原因。
2. 在一方有权的调查机构作出初步认定之前，该方应在官方期刊上发布公告，说明利害关系方（包括进口商和出口商）如何获得临时保障措施申请的非保密副本，并应给予利害关系方至少20天的时间提交关于临时保障措施申请的证据和意见。一方不得在其实权调查机构启动调查之日起至少45天后才实施临时保障措施。
3. 任何临时保障措施的期限不得超过200天，在此期间，申请方应遵守第七章第七节第四条的要求。
4. 如果第七章第七节第四条所述调查未发现符合第七章第二节第一条要求的情况，申请方应迅速退还任何关税增加。任何临时保障措施的期限应计入第七章第二节（c）所述的期间。

Article 7.4: 保障措施的应用

针对某商品的一项保障措施，仅可在该商品的过渡期内适用。

Article 7.5: 保障措施的管理

1. 各缔约方应确保其关于所有保障措施的法律、法规、决定和裁决的适用始终一致、公正合理。

2. Each Party shall entrust determinations of serious injury, or threat thereof, in safeguard measure proceedings to a competent investigating authority, subject to review by judicial or administrative tribunals, to the extent provided by its domestic law. Negative injury determinations are not subject to modification, except by such review. Each Party shall provide the competent investigating authority empowered under its domestic law to conduct those proceedings with the necessary resources to enable that Party to fulfil its duties.

3. Each Party shall adopt or maintain equitable, timely, transparent, and effective procedures for safeguard measure proceedings, in accordance with the requirements set out in paragraph 4.

4. A Party may apply a safeguard measure only following an investigation by the Party’s competent investigating authority 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 7.6: Dispute Settlement in Safeguard Measures Matters

A Party shall not request the establishment of a panel under Article 21.6 (Establishment of a Panel) regarding proposed safeguard measures.

Section B – Antidumping and Countervailing Duties

Article 7.7: Antidumping and Countervailing Duties

Relation to Other Agreements

1. (a) Except as provided in this Article, in respect of the application of antidumping and countervailing measures the Parties maintain their rights and obligations under the WTO Agreement, and disputes regarding any matter relating to those rights and obligations shall be settled under the WTO Agreement.

2. 各缔约方应将保障措施程序中严重损害或其威胁的认定委托给有权的调查机构，并接受司法或行政法庭的审查，其程度应符合其国内法的规定。负面损害认定不适用修改，除非通过该审查。各缔约方应为其国内法授权的有权调查机构提供必要资源，以使其能够履行其职责。

3. 各缔约方应采取或维持公平、及时、透明和有效的保障措施程序，并符合第4段规定的要求。

4. 一方仅在根据保障措施协定第3条和第4.2条由其有权的调查机构进行调查后，方可采取保障措施。为此，保障措施协定第3条和第4.2条经必要修改后纳入本协定并成为本协定的一部分。

第7.6条：保障措施事项中的争端解决

一方不得根据第21.6条（专家小组的设立）就拟议的保障措施请求设立专家小组。

B部分 – 反倾销和反补贴措施

第7.7条：反倾销和反补贴措施

与其他协议的关系

1. (a) 除本条所规定者外，关于反倾销和反补贴措施的适用，各方维持其依世界贸易组织协定所享有的权利和义务，有关任何与该等权利和义务相关的事项所发生的争端，应依世界贸易组织协定解决。

- (b) Except for paragraphs 2 and 4, this Agreement is not to be construed to impose rights or obligations on a Party with respect to antidumping or countervailing measures. A Party shall not have recourse to dispute settlement under this Agreement for a matter arising under this Article.¹

Notification and Consultation

2. Upon receipt by a Party’s competent authority of a properly documented antidumping or countervailing duty application in respect of imports from the other Party, and before initiating an investigation, that Party shall provide written notification to the other Party of its receipt of the application and afford the other Party a meeting or other similar opportunity regarding the application, consistent with that Party’s domestic law.

Lesser duty

3. (a) The Parties recognise the desirability of providing for the possibility of imposing antidumping or countervailing duties that are less than the full margin of dumping or amount of subsidy.
- (b) In this regard:
- (i) Korea shall apply its relevant domestic laws and regulations; and
- (ii) Canada shall consider information provided in accordance with its domestic law as to whether imposing an antidumping or countervailing duty would not be in the public interest. After considering this information, the competent authority may consider whether the amount of the antidumping or countervailing duty to be imposed shall be the full margin of dumping or amount of subsidy, or a lesser amount that would be adequate to remove the injury to the domestic industry, in accordance with the domestic law of Canada.

¹ Although recourse to dispute settlement is not available with respect to paragraphs 2 and 4, the Parties affirm that those paragraphs create binding rights and obligations.

- (b) 除第2段和第4段外，本协定不得解释为在任何一方就反倾销或反补贴措施方面施加权利或义务。一方不得依本协定就本条所规定的事项寻求争端解决。¹

通知和磋商

2. 当一方主管当局收到另一方关于从另一方进口的反倾销或反补贴税的正式申请，并且在启动调查之前，该方应当向另一方发出书面通知，告知其已收到该申请，并给予另一方就该申请举行会议或提供其他类似机会，符合该方的国内法。

较低关税

3. (a) 各方认识到有必要提供采取低于倾销全部幅度或补贴全部金额的反倾销或反补贴税的可能性。(b) 在此方面：(i) 韩国应适用其相关国内法律和法规；以及(ii) 加拿大应考虑其国内法规定的信息，以判断征收反倾销或反补贴税是否符合公共利益。在考虑这些信息后，主管当局可以考虑是否应征收的反倾销或反补贴税金额应为倾销全部幅度或补贴全部金额，或足以消除对国内产业损害的较低金额，并应根据加拿大的国内法进行。

¹ 尽管对于第2段和第4段不能采取争端解决措施，但双方确认这些段落创造了具有约束力的权利和义务。

Undertakings

4. (a) After the competent authority of a Party initiates an antidumping or countervailing duty investigation, that Party shall transmit to the other Party’s embassy or competent authority written information regarding the Party’s laws and procedures for requesting consideration by its authorities of an undertaking as described in the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* or the *WTO Agreement on Subsidies and Countervailing Measures*, including the time frames for offering and concluding any such undertaking.
- (b) In an antidumping or countervailing duty investigation, where a Party’s authority has made a preliminary affirmative determination of dumping or subsidisation and injury caused by that dumping or subsidisation, that Party shall afford due consideration, and adequate opportunity for consultations, to exporters of the other Party regarding proposed undertakings which, if accepted, may result in suspension of the investigation without imposition of antidumping or countervailing duties, through the means provided for in the Party’s domestic laws and procedures.

Section C – Committee on Trade Remedies

Article 7.8: Committee on Trade Remedies

1. The Parties hereby establish a Committee on Trade Remedies, composed of representatives at an appropriate level from relevant agencies of each Party who have responsibility for trade remedies matters, including antidumping, subsidies and countervailing measures, and safeguards issues.
2. The functions of the Committee, which operates on the basis of consensus in respect of all matters, are to:
- (a) enhance each Party’s knowledge and understanding of the other’s domestic trade remedy laws, policies, and practices;

承诺

4. (a) 在一方的主管当局发起反倾销或反补贴税调查后，该方应将有关该方法律和程序的信息传送给另一方的使馆或主管当局， 这些信息涉及根据关税及贸易总协定1994年关于实施总协定第六条的协定或补贴和反补贴措施协定中描述的承诺，由其当局进行审议， 包括提供和达成任何此类承诺的时间框架。
- (b) 在反倾销或反补贴税调查中，如果一方当局已初步认定倾销或补贴以及由此造成的损害， 该方应当给予应有的考虑，并为另一方出口商提供充分的磋商机会，就拟议的承诺进行磋商。如果接受这些承诺，调查可以暂停而不征收反倾销税或反补贴税，具体方式按照该方国内法律和程序规定的途径进行。

第 C 部分 – 贸易救济委员会

第 7.8 条：贸易救济委员会

1. 各缔约方 hereby 设立一个贸易救济委员会，由各缔约方相关机构中负责贸易救济事项（包括反倾销、补贴和反补贴措施、保障措施问题）的代表组成，代表级别适当。
2. 该委员会的职能，在所有事项上基于一致同意的原则，包括：
- (a) 提高各缔约方对另一方国内贸易救济法律、政策和做法的了解和认识；

- (b) oversee implementation of this Chapter, including compliance with Articles 7.7.2 and 7.7.4;
- (c) improve cooperation between the Parties’ agencies having responsibility for trade remedies matters;
- (d) provide a forum for the Parties to exchange information on issues relating to trade remedies matters;
- (e) establish and oversee the development of educational programs related to the administration of trade remedy law for officials of both Parties; and
- (f) provide a forum for the Parties to discuss other relevant topics of mutual interest, including:
 - (i) international issues relating to trade remedies, including issues relating to international trade negotiations; and
 - (ii) practices by the Parties’ competent authorities in antidumping and countervailing duty investigations, such as the application of “facts available” and verification procedures.

3. The Committee shall meet at least once a year and may meet more frequently as agreed by the Parties.

Section D – Definitions

Article 7.9: Definitions

For the purposes of this Chapter:

competent investigating authority means:

- (a) for Canada, the Canadian International Trade Tribunal; and
- (b) for Korea, the Korea Trade Commission,

or their respective successors;

domestic industry means the producers as a whole of the like or directly competitive good operating in the territory of a Party or producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of those goods;

(b) 监督本章的实施，包括遵守第7.7.2条和第7.7.4条； (c) 改善负责贸易救济事项的各方的机构之间的合作； (d) 为各缔约方提供一个交流与贸易救济事项相关的信息的平台； (e) 建立并监督与贸易救济法行政相关的教育项目的发展，为双方的官员提供培训；以及 (f) 为各缔约方提供一个讨论其他相关互利议题的平台，包括：(i) 与贸易救济相关的国际问题，包括与国际贸易谈判相关的问题；以及 (ii) 各方主管当局在反倾销和反补贴税调查中的做法，例如“事实可用”的应用和核实程序。

3. 委员会每年至少召开一次会议， 并可根据双方同意增加会议频率。

第 D 部分 – 定义

第 7.9 条：定义

本章规定如下：

有权的调查机构是指：

- (a) 对于加拿大，指加拿大国际贸易法庭；以及 (b) 对于韩国，指韩国贸易委员会，或其各自的继任者；

国内产业是指在一方领土内从事同类或直接竞争性货物生产的整个生产者， 或其同类或直接竞争性货物的集体生产占这些货物国内总生产主要比例的生产者；

safeguard measure means a measure described in Article 7.2;

serious injury means a significant overall impairment of a domestic industry;

substantial cause means a cause that is important and not less important 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 period beginning on the date of entry into force of this Agreement and ending on the date that is the earliest of:

- (a) 10 years after the end of the tariff elimination period for that good; or
- (b) 15 years after the entry into force of this Agreement.

保障措施是指第7.2条所述的措施；

严重损害是指国内产业遭受的重大整体损害；

重大原因是指一个重要且不亚于任何其他原因的原因；

严重损害威胁是指基于事实而非仅仅是指控、推测或遥远可能性，明显迫在眉睫的严重损害；和

过渡期是指自本协定生效之日起至最早日期结束的期间：

- (a) 该商品关税消除期结束后10年；或 (b) 本协定生效后15年。