

CHAPTER SEVEN

EMERGENCY ACTION AND TRADE REMEDIES

Section A - Emergency Action

Article 701: Article XIX of the GATT 1994 and the Agreement on Safeguards

- Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards, which shall exclusively govern global safeguard actions, including the resolution of any disputes in respect thereof.
- This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken pursuant to Article XIX of the GATT 1994 and the Agreement on Safeguards, except that a Party taking a global safeguard measure may exclude imports of an originating good of the other Party if the competent investigating authority of that Party concludes that such imports are not a substantial cause of serious injury or threat thereof.
- A Party may not apply, with respect to the same good, at the same time:
 - an emergency action; and
 - a measure under Article XIX of the GATT 1994 and the Agreement on Safeguards.

第七章

紧急行动与贸易救济

A节 - 紧急行动

第701条：1994年关贸总协定第XIX条与保障措施协定

- 各缔约方保留其在1994年关贸总协定第XIX条和保障措施协定下的权利和义务，该条款应专门适用于全球保障行动，包括解决与此相关的任何争端。
- 本协定未就根据1994年关贸总协定第XIX条和保障措施协定采取的行动赋予缔约方任何额外权利或义务，但采取全球保障措施的缔约方若其主管调查机关认定另一缔约方原产货物的进口并非造成严重损害或其威胁的实质原因，则可排除该货物的进口。
- 缔约方不得在同一时间对同一货物同时适用：
 - 一项紧急行动；以及
 - 根据1994年关贸总协定第XIX条和《保障措施协定》采取的措施。

Article 702: Imposition of an Emergency Action

1. A Party may apply a 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, an originating good 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 set out in paragraph 1 and Articles 703 and 704 are met, a Party may to the extent 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-favoured-nation (MFN) applied rate of duty in effect at the time the action is taken, and
 - (ii) the base tariff rate as provided in the schedule to Annex 203.2.

第702条：紧急行动的施行

1. 缔约方仅在过渡期内可实施第2款所述措施，前提是由于根据本协定削减或取消关税，导致原产货物以绝对数量或相对于国内生产的数量如此增加，并在如此条件下进口至该缔约方领土，以致对生产同类或直接竞争产品的国内产业造成严重损害或威胁的实质原因。

2. 如满足第1款及第703条和第704条所列条件，缔约方可在防止或补救严重损害或其威胁以及促进调整的必要限度内：

- (a) 中止本协定项下对该货物关税率的进一步削减；或 (b) 将该货物的关税率提高至不超过以下两者中较低者的水平：(i) 采取行动时生效的最惠国适用关税率，及 (ii) 附件203.2减让表中规定的基准关税率。

Article 703: Notification and Consultation

1. A Party shall, in writing, promptly notify the other Party on and request consultations¹ in connection with:
- (a) initiating an emergency action proceeding;
 - (b) making a finding of serious injury or threat thereof under the conditions set out in paragraph 1 of Article 702; and
 - (c) applying an emergency action.
2. A Party shall, without delay, provide to the other Party a copy of the public version of any notice or any report by a competent investigating authority, issued in connection with matters notified pursuant to paragraph 1.
3. If a Party accepts a request for consultations made pursuant paragraph 1, the Parties shall enter into consultations to review the notification under paragraph 1 or any document issued in connection with the emergency action proceeding.
4. Any emergency action shall be initiated no later than one year after the date of institution of the proceeding.

¹ As used in this Article, “consultations” does not mean consultations pursuant to Article 2104 (Dispute Settlement – Consultations).

第703条：通知与磋商

1. 一缔约方应就以下事项书面通知另一缔约方并立即请求磋商¹：
- (a) 启动紧急行动程序；(b) 根据第702条第1款规定的条件作出严重损害或其威胁的认定；以及(c) 实施紧急行动。
2. 一缔约方应立即向另一缔约方提供主管调查机关就根据第1款通知的事项所发布的任何通知或报告的公开版本副本。
3. 如一缔约方接受根据第1款提出的磋商请求，缔约双方应进行磋商，以审查第1款下的通知或与紧急行动程序相关的任何文件。
4. 任何紧急行动应在程序启动之日起不迟于一年内实施。

¹ 本条款中使用的“磋商”并非指根据第2104条（争端解决——磋商）进行的磋商。

Article 704: Standards for an Emergency Action

1. No Party may maintain an emergency action:
 - (a) for a period exceeding three years; or
 - (b) beyond the expiration of the transition period.
2. No Party may apply an emergency action against a good more than twice. A Party may take a second emergency action only if the period of time that has elapsed since the end of the first action is at least half the period of application of the first action.
3. On the termination of any emergency action, the rate of duty shall be the rate that, according to Annex 203.2 for the staged elimination of the tariff, would have been in effect but for the action.
4. In order to facilitate adjustment in a situation where the expected duration of an emergency action is over one year, the Party applying a measure under Article 702 shall progressively liberalize it at regular intervals during the period of application.
5. A Party taking an emergency action under Article 702 shall provide to the exporting 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 action. If the Parties are unable to agree on compensation, the Party against whose goods the action is taken may take tariff action having trade effects substantially equivalent to the action taken under Article 702. The Party taking the tariff action shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects and in any event, only while the measure under Article 702 is being applied.

第704条： 紧急行动标准

1. 任何缔约方不得维持紧急行动：
 - (a) 超过三年期限； 或
 - (b) 超出过渡期届满之日。
2. 任何缔约方不得对同一货物实施超过两次的紧急行动。缔约方仅在两次行动间隔时间至少为首次行动实施期限一半的情况下， 方可采取第二次紧急行动。
3. 紧急行动终止时， 关税率应恢复至附件203.2规定的关税分阶段取消计划中若无该行动本应生效的税率。
4. 若紧急行动预期持续时间超过一年， 为促进调整， 根据第702条实施措施的缔约方应在措施实施期间定期逐步放宽该措施。
5. 根据第702条采取紧急行动的缔约方， 应向出口缔约方提供双方同意的贸易自由化补偿， 形式为具有实质上等效贸易影响的减让， 或等同于该行动预期产生的附加关税价值的减让。如缔约方未能就补偿达成一致， 受该行动影响的货物所属缔约方可采取具有与第702条下行动实质上等效贸易影响的关税行动。采取关税行动的缔约方仅应在实现实质上等效影响所需的最短期限内实施该行动， 且无论如何， 仅在第702条下的措施实施期间适用。

Article 705: Investigation Procedures and Transparency Requirements

1. Each Party shall ensure the consistent, impartial and reasonable administration of its laws, regulations, decisions and rulings governing all emergency action proceedings.
2. Each Party shall entrust determinations of serious injury, or threat thereof, in an emergency action proceeding to a competent investigating authority. Such determinations shall be subject to review by judicial or administrative tribunals, to the extent provided by domestic law. Negative injury determinations shall not be subject to modification, except by such review. The competent investigating authority empowered under domestic law to conduct such proceedings shall be provided with the necessary resources to enable it to fulfill its duties.
3. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures for emergency action proceedings, in accordance with the requirements set out in paragraph 4 and 5 of this Article.
4. A Party shall apply an emergency action only following an investigation by the Party’s competent authority in accordance with Articles 3, 4.2(b) and 4.2(c) of the Agreement on Safeguards. To this end, Articles 3, 4.2(b) and 4.2(c) of the Agreement on Safeguards are incorporated into and made part of this Agreement, *mutatis mutandis*.
5. In the investigation described in paragraph 3, a Party shall comply with the requirements of Article 4.2(a) of the Agreement on Safeguards. To this end, Article 4.2(a) of the Agreement on Safeguards is incorporated into and made part of this Agreement, *mutatis mutandis*.

第705条：调查程序与透明度要求

1. 每一缔约方应确保其管辖所有紧急行动程序的法律、法规、决定和裁决得到一致、公正和合理的执行。
2. 每一缔约方应将紧急行动程序中严重损害或其威胁的裁定权授予主管调查机关。此类裁定应受司法或行政法庭的审查，但以国内法规定为限。否定性损害裁定不得被修改，但此类审查除外。根据国内法授权进行此类程序的主管调查机关应被提供必要资源，使其能够履行职责。
3. 每一缔约方应根据本条第四款和第五款所列要求，制定或维持公平、及时、透明和有效的紧急行动程序。
4. 缔约方仅应在根据《保障措施协定》第3条、第4.2(b)款和第4.2(c)款由该缔约方主管机关进行调查后实施紧急行动。为此，《保障措施协定》第3条、第4.2(b)款和第4.2(c)款经必要修改后并入本协定并成为其组成部分。
5. 在第3段所述的调查中，缔约方应遵守《保障措施协定》第4.2(a)条的要求。为此，《保障措施协定》第4.2(a)条经必要修改后纳入本协定并成为其组成部分。

Section B – Antidumping and Countervailing Measures

Article 706: Antidumping and Countervailing Measures

1. Each Party retains its rights and obligations under the WTO Agreement, which shall exclusively govern the application of antidumping and countervailing measures.
2. The WTO shall have exclusive jurisdiction in respect of the matters referred to in paragraph 1 and no provision of this Agreement, including the provisions of Chapter Twenty-One (Dispute Settlement), shall be construed as imposing any rights or obligations on the Parties with respect to antidumping or countervailing measures.

Article 707: Definitions

For purposes of this Chapter:

Agreement on Safeguards means the WTO *Agreement on Safeguards*;

competent investigating authority means:

- (a) in the case of Canada, the Canadian International Trade Tribunal, or its successor; and
- (b) in the case of Peru, the Vice Ministry of Foreign Trade of the Ministry of Foreign Trade and Tourism, or its successor;

domestic industry means with respect to an imported good, the producers as a whole of the like or directly competitive good operating in the territory of a Party or those whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of such good;

emergency action means any emergency action described in Article 702;

B部分–反倾销和反补贴措施

第706条：反倾销和反补贴措施

1. 各缔约方保留其在《世贸组织协定》下的权利和义务，该协定应专属管辖反倾销和反补贴措施的实施。
2. 世贸组织对第1款所述事项拥有专属管辖权，本协定任何条款，包括第二十一章（争端解决）的规定，均不得解释为对缔约方施加任何关于反倾销或反补贴措施的权利或义务。

第707条：定义

就本章而言：

《保障措施协定》指《世贸组织保障措施协定》；

主管调查机关指：

- (a) 在加拿大的情况下，指加拿大国际贸易法庭，或其继任者；及
- (b) 在秘鲁的情况下，指外贸和旅游部外贸副部长办公室，或其继任者；

国内产业就进口商品而言，指一缔约方领土内从事同类或直接竞争产品生产的全体生产者，或其同类或直接竞争产品的集体产量占该产品国内生产总量主要部分的生产者；

紧急行动指第702条所述的任何紧急行动；

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 seven year period beginning on the entry into force of this Agreement, except where the tariff elimination for the good against which the action is taken occurs over a longer period of time, in which case the transition period shall be the period of the staged tariff elimination for that good.

严重损害指对国内产业造成的重大全面损害；

实质原因指重要且不亚于任何其他原因的原因；

严重损害威胁指基于事实而非仅凭主张、推测或渺茫可能性，明显迫在眉睫的严重损害；且

过渡期指自本协定生效之日起的七年期限，除非针对所涉货物采取的关税取消行动在更长期限内实施，在此情况下过渡期应为该货物分阶段关税取消的期限。