

Trade and Development and the United Nations Economic Commission for Europe, to identify areas in which further joint action would facilitate trade between the Parties and promote shared multilateral objectives.

Text of the Canada–Ukraine Free trade agreement – Chapter 5: Emergency action and trade remedies

Section A – Definitions

Article 5.1: Definitions

For the purposes of this Chapter:

Agreement on Safeguards means the WTO Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;

Anti-Dumping Agreement means the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;

competent investigating authority means:

- (a) in the case of Canada, the Canadian International Trade Tribunal, or its successor; and

贸易与发展及联合国欧洲经济委员会，旨在确定哪些领域的进一步联合行动将促进缔约方之间的贸易并推动共同的多边目标。

加拿大-乌克兰自由贸易协定文本 – 第五章：紧急行动与贸易救济

A部分 - 定义

第5.1条：定义

就本章而言：

保障措施协定 指WTO协定附件1A中所含的WTO保障措施协定；

反倾销协定系指包含在WTO协定附件1A中的WTO关于实施1994年关税与贸易总协定第6条的协定；**主管调查机关**关系指：

- (a) 就加拿大而言，指加拿大国际贸易法庭或其继任者；以及

- (b) in the case of Ukraine, the Ministry of Economic Development and Trade, 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 that good;

emergency action means an emergency action described in Article 5.3;

SCM Agreement means the *WTO Agreement on Subsidies and Countervailing Measures*, contained in Annex 1A to the *WTO Agreement*;

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 is clearly imminent based on facts and not based on allegation, conjecture or remote possibility; and

- (b) 就乌克兰而言，指经济发展和贸易部或其继任者；

国内产业指对于进口货物而言，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比例的生产者；

紧急行动指第5.3条所述的紧急行动；

补贴与反补贴措施协议指世界贸易组织协议附件1A中所包含的《补贴与反补贴措施协议》；

严重损害指对国内产业造成的重大全面损害；

重要原因指重要且不亚于任何其他原因的原因；

严重损害威胁 指基于事实而非指控、推测或遥远可能性，明显迫在眉睫的严重损害；且

transition period means the 7-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 is the period of the staged tariff elimination for that good.

Section B – Emergency Action

Article 5.2: Article XIX of the GATT 1994 and the Agreement on Safeguards

- 1. Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards, which exclusively govern global safeguard actions including the resolution of a dispute with respect to those matters.*
- 2. A Party shall not adopt or maintain, with respect to the same good, at the same time:*
 - (a) an emergency action; and*
 - (b) a measure under Article XIX of the GATT 1994 and the Agreement on Safeguards.*

Article 5.3: Bilateral Emergency Actions

- 1. A Party may adopt an emergency action described in paragraph 2:*

过渡期 指自本协议生效之日起的7年期限，除非对所涉货物采取的关税取消行动需更长时间完成，在此情况下过渡期即为该货物分阶段取消关税的期限。

B部分 – 紧急行动

第5.2条：1994年关贸总协定第19条与保障措施协定

- 1. 每一方保留其在1994年关贸总协定第19条和保障措施协定下的权利和义务，这些条款专门管辖全球保障行动，包括与此类事项相关的争端解决。
- 2. 缔约方不得针对同一货物同时采取或维持以下措施：
 - (a) 一项紧急行动；及
 - (b) 根据1994年关贸总协定第19条和保障措施协定采取的措施。

第5.3条：双边紧急行动

- 1. 缔约方可采取第2款所述的紧急行动：

- (a) only during the transition period; and
- (b) 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 Article 5.4 and 5.5 are met, a Party may, to the extent necessary to prevent or remedy serious injury, or threat of serious injury:

- (a) suspend the further reduction of a 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 exceeding the lesser of:
 - (i) the most-favoured-nation (MFN) applied rate of customs duty in effect at the time the emergency action is taken, and
 - (ii) the base rate of customs duty as provided in the Party's schedule to Annex 2-B (Tariff Elimination); or

- (a) 仅在过渡期内；且
- (b) 若因根据本协议削减或取消关税，导致原产货物以绝对数量或相对于国内生产的比例大量进口至该缔约方领土，且在此情况下构成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重要原因。

2. 如果满足第1款及第5.4条和5.5条规定的条件，缔约方可在防止或补救严重损害或严重损害威胁所需的限度内：

- (a) 暂停根据本协议对该货物关税税率的进一步削减；或
- (b) 将该货物的关税税率提高至不超过以下两者中较低者的水平：
 - (i) 采取紧急行动时生效的最惠国待遇适用关税税率，和
 - (ii) 如缔约方附件2-B减让表（关税取消）所规定的基准关税税率；或

- (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 corresponding season immediately preceding the date of application of an emergency action, or
 - (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, or
 - (iii) the base rate of customs duty provided for in the Party's schedule to Annex 2-B (Tariff Elimination).

3. Any emergency action shall be adopted no later than one year after the date the proceeding is instituted.

Article 5.4: Notification and Discussions

1. A Party shall, in writing, promptly notify and invite the other Party for discussions with respect to:

- (a) initiating an emergency action proceeding;
- (b) making a finding of serious injury or threat of serious injury under the conditions set out in Article 5.3.1; or
- (c) applying an emergency action.

- (c) 对于按季节性基础征收关税的货物，将关税税率提高至不超过以下两者中较低者的水平：

- (i) 紧急行动申请日期前立即生效的该货物最惠国适用关税税率，或
- (ii) 本协议生效日期前立即生效的该货物最惠国适用关税税率，或
- (iii) 缔约方附件2-B减让表（关税取消）中规定的基准关税税率。

3. 任何紧急行动应在程序启动后不迟于一年内实施。

第5.4条：通知与讨论

1. 缔约方应以书面形式立即通知并邀请另一缔约方就以下事项进行讨论：

- (a) 启动紧急行动程序；
- (b) 根据第5.3.1条规定的条件，作出严重损害或严重损害威胁的认定；或
- (c) 实施紧急行动。

2. A Party shall, without delay, provide the other Party with 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 an invitation for discussions made pursuant to paragraph 1, the Parties shall discuss the notification under paragraph 1, or the public version of a document issued by a competent investigating authority in connection with the emergency action proceeding.

Article 5.5: Standards for Emergency Actions

1. A Party shall not maintain an emergency action:

- (a) to an extent or for a period that exceeds what is necessary to prevent or remedy serious injury and facilitate adjustment;
- (b) for a period exceeding three years; or
- (c) beyond the expiration of the transition period.

2. A Party shall not apply an emergency action against an originating good more than once.

3. In order to facilitate adjustment in a situation where the expected duration of an emergency action is greater than one year, the Party

2. 一缔约方应立即向另一缔约方提供主管调查机关就第1款通知事项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款发出的讨论邀请，缔约方应讨论第1款下的通知，或主管调查机关在紧急行动程序中签发的文件公开版本。

第5.5条：紧急行动标准

1. 缔约方不得维持以下紧急行动：

- (a) 超出防止或补救严重损害及促进调整所需的程度或期限；
- (b) 期限超过三年；或
- (c) 过渡期届满后仍继续实施。

2. 缔约方不得对同一原产货物实施一次以上的紧急行动。

3. 为了在紧急行动的预计持续时间超过一年的情况下促进调整，缔约方

taking the action shall progressively liberalize the emergency action at annual intervals during the period of application.

4. On the termination of an emergency action, a Party shall set the rate of customs duty at the rate that would have been in effect but for the action according to the Party's Schedule to Annex 2-B (Tariff Elimination) for the staged elimination of the customs duty.

5. A Party taking an emergency action under Article 5.3 shall provide to the exporting Party mutually agreed trade liberalizing compensation in the form of concessions with 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 whose goods are subject to the action may take tariff action with trade effects substantially equivalent to the emergency action taken under Article 5.3. 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 emergency action under Article 5.3 is in effect.

Article 5.6: Administration of Emergency Action Proceedings

1. Each Party shall ensure the consistent, impartial and reasonable administration of its legislation, decisions and rulings governing emergency action proceedings.

采取行动的一方应在适用期间以年度为间隔逐步放宽紧急行动。

4. 紧急行动终止时，缔约方应将关税税率调整至若非采取该行动则根据《附件2-B减让表》（关税取消）分阶段取消关税本应生效的税率。

5. 根据第5.3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，形式为具有实质等效贸易效应的减让或等同于该行动预期产生的附加关税价值。若缔约方未能就补偿达成一致，其货物受该行动影响的缔约方可采取与第5.3条下紧急行动具有实质等效贸易效应的关税行动。采取关税行动的缔约方仅应在实现实质等效效应所需的最短期限内实施该行动，且无论如何仅在第5.3条下紧急行动有效期间实施。

第5.6条：紧急措施程序管理

1. 每一方应确保其管理紧急行动程序的立法、决定和裁决的施行具有一致性、公正性和合理性。

2. Each Party shall entrust determinations of serious injury, or threat of serious injury, in an emergency action proceeding, to a competent investigating authority. Each Party shall:

- (a) ensure that those determinations are subject to review by judicial or administrative tribunals, to the extent provided by the Party's legislation;
- (b) ensure that negative injury determinations are not modified, except through a review referred to in sub-paragraph (a); and
- (c) provide its competent investigating authority 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.

4. A Party shall apply an emergency action only following an investigation by the Party's competent investigating authority in accordance with Articles 3 and 4.2 of the Agreement on Safeguards. To this end, Articles 3 and 4.2 of the Agreement on Safeguards are incorporated into and made part of this Agreement.

Article 5.7: Dispute Settlement in Emergency Action Matters

2. 每一方应将紧急行动程序中关于严重损害或严重损害威胁的判定委托给主管调查机关。每一方应：

- (a) 确保这些裁定可根据缔约方国内法的规定接受司法或行政法庭的审查；
- (b) 确保否定性损害裁定不得被修改，除非通过(a)项所述的审查；以及
- (c) 向其主管调查机关提供必要资源，使其能够履行职责。

3. 每一方应根据第4款所列要求，制定或维持公平、及时、透明且有效的紧急行动程序。

4. 缔约方仅在其主管调查机关根据《保障措施协定》第3条和第4.2条进行调查后，方可实施紧急行动。为此，《保障措施协定》第3条和第4.2条被纳入本协议并成为其组成部分。

第5.7条：紧急行动事项的争端解决

1. A Party shall not request the establishment of a panel under Article 17.7 (Establishment of a Panel) regarding a proposed emergency action.

2. A Party may request the establishment of a panel under Article 17.7 (Establishment of a Panel) regarding an actual emergency action.

Section C – Anti-Dumping and Countervailing Measures

Article 5.8: Relation to Other Agreements

1. Each Party shall apply anti-dumping and countervailing measures in accordance with Article VI of the GATT 1994, the Anti-Dumping Agreement and the SCM Agreement.

2. This Section is not subject to Chapter 17 (Dispute Settlement).

Article 5.9: Transparency

1. A Party shall ensure, after an imposition of provisional measures, and in any case, before a final determination is made, full and meaningful disclosure of all essential facts under consideration which form the basis for the decision whether to apply final measures. This

1. 一缔约方不得就拟议的紧急行动根据第17.7条（专家组的设立）请求设立专家组。

2. 缔约方可依据第17.7条（专家组的设立）就实际紧急行动请求设立专家组。

C节 – 反倾销和反补贴措施

第5.8条：与其他协定的关系

1. 每一方应依照1994年关税与贸易总协定第六条、《反倾销协定》及《补贴与反补贴措施协议》实施反倾销和反补贴措施。

2. 本节不适用第17章（争端解决）。

第5.9条：透明度

1. 缔约方应确保在实施临时措施后，且无论如何作出最终裁定前，充分且有意义地披露所有作为是否适用最终措施决定依据的基本事实。

is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement.

2. Provided that it does not unnecessarily delay the conduct of the investigation, each interested party in an anti-dumping or countervailing investigation^{Footnote1} shall be granted a full opportunity to defend its interests.

Footnotes

Footnote 1
For the purpose of this Article, “interested parties” are defined as per Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement.

Text of the Canada–Ukraine Free trade agreement – Chapter 6: Sanitary and phytosanitary measures

Article 6.1: Relation to other Agreements

- 1. The Parties affirm their rights and obligations under the SPS Agreement.
- 2. The Parties shall use the WTO dispute settlement procedures for any formal disputes regarding sanitary and phytosanitary measures.

Article 6.2: Scope and Coverage

此规定不影响《反倾销协定》第6.5条和《补贴与反补贴措施协定》第12.4条的

- 2. 只要不无故拖延调查进程，反倾销或反补贴调查中的每一利害关系方^{Footnote1} 均应被给予充分机会为其利益进行辩护。

脚注

脚注1
就本条而言，“利害关系方”的定义以《反倾销协定》第6.11条和《补贴与反补贴措施协定》第12.9条为准。

加拿大-乌克兰自由贸易协定文本——第六章：

第6.1条：与其他协定的关系

- 1. 缔约方重申其在《实施卫生与植物卫生措施协定》下的权利和义务。
- 2. 对于任何关于卫生与植物卫生措施的正式争端，缔约方应使用WTO争端解决

第6.2条：范围与涵盖