

CHAPTER TEN
TRADE REMEDIES

Section A: Safeguard Measures

ARTICLE 10.1: APPLICATION OF A SAFEGUARD MEASURE

If, as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of the other Party is being imported into the territory of a Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that the imports of such originating good from the other Party constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the Party may:

- (a) suspend the further reduction of any rate of customs duty on the good provided for under this Agreement;
- (b) increase the rate of customs duty on the good to a level not to exceed the lesser of:
 - (i) the most-favored-nation (MFN) applied rate of duty on the good in effect at the time the action is taken; and
 - (ii) the MFN applied rate of duty on the good in effect on the day immediately preceding the date this Agreement enters into force; or
- (c) in the case of a customs duty applied to a good on a seasonal basis, increase the rate of duty to a level that, for each season, does not exceed the lesser of:
 - (i) the MFN applied rate of 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 duty on the good in effect for the corresponding season immediately preceding the date this Agreement enters into force.

ARTICLE 10.2: CONDITIONS AND LIMITATIONS

1. A Party shall notify the other Party in writing on initiation of an investigation described in paragraph 2 and shall consult with the other Party as far in advance of applying a safeguard

第十章 贸易救济

第一节 保障措施

第10.1条 保障措施的实施

若因本协定项下关税 的削减或取消，导致另一缔约方的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一缔约方领土，且在此情况下，来自另一缔约方的该原产货物的进口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，则该缔约方可：

(a) 中止本协定规定的对该货物关税税率的进一步削减；(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) 采取行动时有效的该货物最惠国待遇适用关税税率；及(ii) 本协定生效之日前一日有效的该货物最惠国待遇适用关税税率；或(c) 对于按季节性基础征收关税的货物，将关税税率提高至每一季节不超过以下两者中较低者的水平：(i) 保障措施实施之日前相应季节有效的该货物最惠国待遇适用关税税率；及(ii) 本协定生效之日前相应季节有效的该货物最惠国待遇适用关税税率。

ARTICLE 10.2: CONDITIONS 与 LIMITATIONS

1. 一缔约方应在启动第2款所述调查时书面通知另一缔约方，并尽可能在实际可行的情况下提前与另一缔约方进行磋商，以便审查调查所得信息并就保障措施交换意见。

measure as practicable, with a view to reviewing the information arising from the investigation and exchanging views on the measure.

2. A Party shall apply a safeguard measure only following an investigation by the Party’s competent authorities in accordance with Articles 3 and 4.2(c) of the Safeguards Agreement, and to this end, Articles 3 and 4.2(c) of the Safeguards Agreement are incorporated into and made a part of this Agreement, *mutatis mutandis*.

3. In the investigation described in paragraph 2, the Party shall comply with the requirements of Article 4.2(a) of the Safeguards Agreement, and to this end, Article 4.2(a) of the Safeguards Agreement is incorporated into and made a part of this Agreement, *mutatis mutandis*.

4. Each Party shall ensure that its competent authorities complete any such investigation within one year of its date of initiation.

5. Neither Party may apply a safeguard measure:
- (a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate adjustment;
 - (b) for a period exceeding two years, except that the period may be extended by up to one year if the competent authorities of the importing Party determine, in conformity with the procedures specified in this Article, that the 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, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed three years; or
 - (c) beyond the expiration of the transition period, except with the consent of the other Party.

6. Neither Party may apply a safeguard measure more than once against the same good.

7. Where the expected duration of the safeguard measure is over one year, the importing Party shall progressively liberalize it at regular intervals.

8. When a Party terminates a safeguard measure, the rate of customs duty shall be the rate that, according to the Party’s Schedule to Annex 2-B (Tariff Elimination), would have been in effect but for the measure.

ARTICLE 10.3: PROVISIONAL MEASURES

在可行的情况下尽早采取行动，以便审查调查所得信息并就措施交换意见。

2. 一缔约方仅可在其主管机关根据《保障措施协定》第3条和第4.2(c)条进行调查后实施保障措施。为此，《保障措施协定》第3条和第4.2(c)条经必要修改后纳入本协定并成为其组成部分。

3. 在第2款所述的调查中，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。

4. 每一缔约方应确保其主管机关在调查启动之日起一年内完成任何此类调查。

5. 任何缔约方均不得实施保障措施：
- (a) 除非为防止或补救严重损害并促进调整所必需的程度和期限；(b) 实施期限超过两年，但如进口缔约方主管机关按照本条规定的程序确定该措施对于防止或补救严重损害并促进调整仍有必要，且有证据表明该产业正在进行调整，则该期限可延长最多一年，但保障措施的实施总期限（包括最初实施期和任何延长期）不得超过三年；或(c) 超过过渡期届满之时，但另一缔约方同意的除外。

6. Neit其缔约方可对同一商品多次实施保障措施 d.

7. 若保障措施的预期实施期限超过一年，进口缔约方应在实施期间按固定间隔逐步放宽该措施。

8. 当一缔约方终止保障措施时，关税税率应根据该缔约方附件2-B的减让表（关税取消）规定、若无此措施本应适用的税率。

ARTICLE 10.3: PROVISIONAL MEASURES

1. In critical circumstances where 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 authorities that there is clear evidence that imports of an originating good from the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and such imports constitute a substantial cause of serious injury, or threat thereof, to the domestic industry.
2. Before a Party’s competent authorities may make a preliminary determination, the 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 at least 20 days after the date it publishes the notice to submit evidence and views regarding the application of a provisional measure. A Party may not apply a provisional measure until at least 45 days after the date its competent authorities initiate an investigation.
3. The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the requirements of Articles 10.2.2 and 10.2.3.
4. The Party shall promptly refund any tariff increases if the investigation described in Article 10.2.2 does not result in a finding that the requirements of Article 10.1 are met. The duration of any provisional measure shall be counted as part of the period described in Article 10.2.5(b).

ARTICLE 10.4: COMPENSATION

1. No later than 30 days after it applies a safeguard measure, a Party shall afford an opportunity for the other Party to consult with it regarding appropriate 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. The applying Party shall provide such compensation as the Parties mutually agree.
2. 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.
3. The applying Party’s obligation to provide compensation under paragraph 1 and the other Party’s right to suspend concessions under paragraph 2 shall terminate on the date the safeguard measure terminates.

1. 在迟延将导致难以弥补损害的紧急情况下，若一缔约方主管机关初步裁定有明确证据表明，由于本协定项下关税的削减或取消，来自另一缔约方的原产货物进口增加，且此类进口构成对国内产业造成严重损害或威胁的重要原因，则该缔约方可临时实施保障措施。
2. 一缔约方的主管机关在作出初步裁定前，应在其官方公报上发布公告，说明包括进口商和出口商在内的利害关系方如何获取要求采取临时保障措施的申请的非保密副本，并应给予利害关系方自公告发布之日起至少20天的时间，以提交关于适用临时措施的证据和意见。缔约方不得在其主管机关发起调查之日起至少45天内实施临时措施。
3. 任何临时措施的期限不得超过200天，在此期间，缔约方应遵守第10.2.2条和第10.2.3条的要求。
4. 如果第10.2.2条所述的调查未得出满足第10.1条要求的结论，缔约方应立即退还任何关税增加。任何临时措施的期限应计入第10.2.5(b)条所述的期间内。

第十条第四款：补偿

1. 一缔约方实施保障措施后，应不迟于30天为另一缔约方提供磋商机会，以商定形式适当的贸易自由化补偿，该补偿应具有与措施预期导致的附加关税价值相等或实质上相当的贸易效应的减让。实施方应提供缔约双方共同商定的此类补偿。
2. 若缔约方在磋商开始后30天内未能就补偿达成一致，则措施所针对的原产货物所属缔约方可中止对实施方原产货物的减让，其贸易效应应与保障措施实质上相当。
3. 申请缔约方根据第1款提供补偿的义务及其他缔约方根据第2款中止减让的权利，应于保障措施终止之日终止。

ARTICLE 10.5: GLOBAL SAFEGUARD ACTIONS

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement. This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken under Article XIX of 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 if such imports are not a substantial cause of serious injury or threat thereof.
2. Neither Party may apply, with respect to the same good, at the same time:

(a) a safeguard measure; and

(b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

ARTICLE 10.6: DEFINITIONS

For purposes of Section A:

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 output of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

safeguard measure means a measure described in Article 10.1;

serious injury means a significant overall impairment in the position of a domestic industry;

substantial cause means a cause that is important and not less 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 ten-year period following the date this Agreement enters into force, except that for any good for which the Schedule to Annex 2-B (Tariff Elimination) of the Party applying the safeguard measure provides for the Party to eliminate its tariffs on the good over a period of more than ten years, **transition period** means the tariff elimination period for the good set out in that Schedule.

Section B: Antidumping and Countervailing Duties

第10.5条：全球保障措施

1. 各缔约方保留其在1994年关贸总协定第19条和《保障措施协定》项下的权利和义务。本协定未就根据1994年关贸总协定第19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可排除另一缔约方原产货物的进口，前提是该进口产品并非造成严重损害或其威胁的重要原因。
2. 任一缔约方不得针对同一货物同时实施以下措施：

(a) 保障措施；及 (b) 依据1994年关贸总协定第19条和《保障措施协定》采取的措施。

第10.6条：定义

就A节而言：

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总产量占该产品国内总产量主要部分的生产者；

保障措施指第10.1条所述措施；

严重损害指国内产业地位遭受重大全面损害；

重要原因指具有重要性且不亚于其他任何原因的原因；

严重损害威胁指基于事实（而非仅凭指控、推测或极小可能性）明确迫近严重损害；及

过渡期指本协定生效之日起的十年期间，但对于适用保障措施的缔约方在附件2-B（关税取消）减让表中规定对该货物关税取消期超过十年的任何货物，过渡期指该减让表中规定的该货物的关税取消期。

B部分：反倾销与反补贴税

ARTICLE 10.7: ANTIDUMPING AND COUNTERVAILING DUTIES

1. The Parties recognize the right to apply trade remedy measures consistent with Article VI of the GATT 1994, the AD Agreement, and the SCM Agreement, and the importance of promoting transparency in antidumping and countervailing duty proceedings and of ensuring the opportunity of all interested parties to participate meaningfully in such proceedings.
2. Each Party retains its rights and obligations under the WTO Agreement with regard to the application of antidumping and countervailing duties.
3. Except for paragraphs 4 through 7, no provision of this Agreement shall be construed to impose any rights or obligations on a Party with respect to antidumping or countervailing duty measures. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Article.¹

Notification and Consultations

4. (a) Upon receipt by a Party’s competent authorities of a properly documented antidumping application with respect to imports from the other Party, and before initiating an investigation, the 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 opportunities regarding the application, consistent with the Party’s law.
- (b) Upon receipt by a Party’s competent authorities of a properly documented countervailing duty application with respect to imports from the other Party, and before initiating an investigation, the Party shall provide written notification to the other Party of its receipt of the application and afford the other Party a meeting to consult with its competent authorities regarding the application.

Undertakings

5. (a) After a Party’s competent authorities initiate an antidumping or countervailing duty investigation, the Party shall transmit to the other Party’s embassy or competent authorities written information regarding the Party’s procedures for requesting its authorities to consider an undertaking on price or, as appropriate, on quantity, including the time frames for offering and concluding any such undertaking.

¹ Although recourse to dispute settlement is not available with respect to paragraphs 4 through 7, the Parties reaffirm that those paragraphs create binding rights and obligations.

第10.7条：反倾销和反补贴税

1. 缔约方承认根据1994年关税及贸易总协定第六条、《反倾销协定》及《补贴与反补贴措施协定》实施贸易救济措施的权利，并认识到促进反倾销和反补贴税程序透明度以及确保所有利害关系方有意义参与此类程序的重要性。
2. 各缔约方保留其在《世界贸易组织协定》项下关于反倾销和反补贴税适用的权利和义务。
3. 除第4款至第7款外，本协定的任何规定均不得解释为对缔约方施加有关反倾销或反补贴税措施的任何权利或义务。任何缔约方均不得就本条项下产生的任何事项诉诸本协定项下的争端解决。¹

通知与磋商

4. (a) 一缔约方主管机关收到关于自另一缔约方进口产品的反倾销申请且该申请文件齐备后，在启动调查前，该缔约方应向另一缔约方提供关于收到申请的书面通知，并根据该缔约方的法律，为另一缔约方就该申请提供会议或其他类似机会。(b) 一缔约方主管机关收到关于自另一缔约方进口产品的反补贴税申请且该申请文件齐备后，在启动调查前，该缔约方应向另一缔约方提供关于收到申请的书面通知，并为另一缔约方提供与其主管机关就该申请进行磋商的会议机会。

承诺

5. (a) 一缔约方的主管机关发起反倾销或反补贴税调查后，该缔约方应向另一缔约方的大使馆或主管机关提交书面信息，说明其请求主管机关考虑价格承诺或酌情考虑数量承诺的程序，包括提出和达成任何此类承诺的时间框架。

¹ 尽管不能就第4至第7段诉诸争端解决，但缔约方重申这些段落创设了具有约束力的权利和义务。

- (b) In an antidumping investigation, where a Party’s authorities have made a preliminary affirmative determination of dumping and injury caused by such dumping, the Party shall afford due consideration, and adequate opportunity for consultations, to exporters of the other Party regarding proposed price undertakings which, if accepted, may result in suspension of the investigation without imposition of antidumping duties, through the means provided for in the Party’s laws and procedures.
- (c) In a countervailing duty investigation, where a Party’s authorities have made a preliminary affirmative determination of subsidization and injury caused by such subsidization, the Party shall afford due consideration, and adequate opportunity for consultations, to the other Party and exporters of the other Party, regarding proposed undertakings on price or, as appropriate, on quantity, which, if accepted, may result in suspension of the investigation without imposition of countervailing duties, through the means provided for in the Party’s laws and procedures.

Transparency and Due Process

6. In any segment of a proceeding in which an investigating authority of a Party determines to conduct an in-person verification of information provided by a responding party and pertinent to the calculation of an antidumping duty margin or the level of a countervailable subsidy, the investigating authority shall promptly notify the responding party of its intent to do so, and normally shall:

- (a) provide the responding party advance notice of the dates on which the investigating authority intends to conduct any such in-person verification of information;
- (b) prior to any such in-person verification, provide the responding party a document that sets forth the topics the responding party should be prepared to address during the verification and describes the types of supporting documentation the responding party should make available for review;
- (c) after the verification is completed prepare a written report describing the methods and procedures that it followed in carrying out the verification and the results of the verification; and
- (d) make the report available, consistent with the Party’s law, to all interested parties in sufficient time for the interested parties to defend their interests in the segment of a proceeding.

(b) 在反倾销调查中，如一缔约方的主管机关已就倾销及由此造成的损害作出初步肯定性裁定，则该缔约方应通过其法律和程序规定的方式，对另一缔约方出口商提出的价格承诺给予适当考虑和充分磋商机会，若该承诺被接受，可能导致在不征收反倾销税的情况下中止调查。

(c) 在反补贴税调查中，若一缔约方的调查机关已作出关于可抵消补贴及由此造成损害的初步肯定性裁定，该缔约方应通过其法律和程序规定的方式，就拟议的价格承诺或适当的数量承诺，给予另一缔约方及其出口商充分考量和磋商机会。若承诺被接受，可导致在不征收反补贴税的情况下中止调查。

透明度与正当程序

6. 在程序的任何阶段，若一缔约方的调查机关决定对应诉方提供的、与反倾销税幅度或可抵消补贴水平计算相关的信息进行实地核查，该调查机关应及时通知应诉方其核查意向，并通常应：

(a) 向应诉方提前通知调查机关拟对信息进行实地核查的日期；(b) 在进行实地核查前，向应诉方提供一份文件，列明应诉方应在核查期间准备讨论的主题，并说明应诉方应准备供查阅的支持性文件的类型；(c) 核查完成后，编写一份书面报告，说明核查所采用的方法和程序以及核查结果；(d) 根据缔约方法律，向所有利害关系方提供该报告，且时间应足够让利害关系方在程序阶段维护其利益。

7. An investigating authority of a Party shall, consistent with the Party’s law, disclose, *inter alia*, for each interested party for whom the investigating authority has determined an individual rate of duty, the calculations used to determine the rate of dumping or countervailable subsidization and, if different, the calculations used to determine the rate of duty to be applied to imports of the interested party. The disclosure and explanation shall be in sufficient detail so as to permit the interested party to reproduce the calculations without undue difficulty. Such disclosure shall include, whether in electronic format (such as a computer program or spreadsheet) or in any other medium, a detailed explanation of the information the investigating authority used, the sources of that information, and any adjustments it made to the information when used in the calculations. The investigating authority shall provide interested parties adequate opportunity to respond to the disclosure.

Section C: Committee on Trade Remedies

ARTICLE 10.8: COMMITTEE ON TRADE REMEDIES

1. The Parties hereby establish a Committee on Trade Remedies, comprising 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 shall be to:

(a) enhance each Party’s knowledge and understanding of the other Party’s trade remedy laws, policies, and practices;

(b) oversee implementation of this Chapter, including compliance with paragraphs 4 through 7 of Article 10.7;

(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 antidumping, subsidies and countervailing measures, and safeguards;

(e) establish and oversee, for officials of both Parties, development of educational programs related to the administration of trade remedy laws; and

(f) provide a forum for the Parties to discuss other relevant topics of mutual interest including:
- 10-7
7. 缔约方的调查机关应根据缔约方法律，向利害关系方披露相关信息，包括：对于调查机关已确定个别税率的每个利害关系方，披露用于确定倾销幅度或可抵消补贴的计算方法，以及（如有不同）用于确定适用于该利害关系方进口产品的税率计算方法。披露和解释应足够详细，以使利害关系方能够毫无困难地重现计算过程。此类披露应包括调查机关使用的信息、信息来源以及在计算中对信息所作的任何调整的详细说明，无论是以电子格式（如计算机程序或电子表格）还是以任何其他媒介提供。调查机关应为利害关系方提供充分机会对披露内容作出回应。
- 第三节：贸易救济委员会
- 第10.8条：贸易救济委员会
1. 缔约方特此设立贸易救济委员会，由各缔约方负责贸易救济事务（包括反倾销、补贴与反补贴措施及保障措施问题）的相关机构适当级别代表组成。

2. 委员会的职能应包括：

(a) 增进各缔约方对另一方贸易救济法律、政策和做法的了解与认识；(b) 监督本章实施情况，包括遵守第10.7条第4至7款的规定；(c) 加强缔约方负责贸易救济事务的机构之间的合作；(d) 为缔约方提供论坛，就反倾销、补贴与反补贴措施及保障措施相关问题交换信息；(e) 为双方官员建立并监督与贸易救济法律管理相关的教育计划的发展；以及(f) 为缔约方提供论坛，讨论其他共同利益相关的议题，包括：

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- (i) international issues related to trade remedies, including issues relating to the WTO Doha Round Rules negotiations;
 - (ii) practices by the Parties’ competent authorities in antidumping and countervailing duty investigations, such as application of “facts available” and verification procedures; and
 - (iii) practices of a Party that may constitute industrial subsidies.
3. The Committee shall meet at least once a year and may meet more frequently as the Parties may agree.

- (i) 与贸易救济相关的国际问题，包括涉及WTO多哈回合规则谈判的问题；
 - (ii) 缔约方主管机关在反倾销和反补贴税调查中的做法，例如“可获得事实”的应用和核查程序；以及
 - (iii) 缔约方可能构成产业补贴的做法。
3. 委员会应每年至少召开一次会议，并可根据缔约方商定更频繁地召开会议。