

This document contains an EU proposal for a section A on Anti-dumping and countervailing duties and a Section B on Global Safeguard Measures for the Trade remedies chapter in the Trade Part of a possible modernised EU-Chile Association Agreement. It has been tabled for discussion with Chile. The actual text in the final agreement will be a result of negotiations between the EU and Chile. The EU reserves the right to make subsequent modifications to this proposal.

EU-Chile Free Trade Agreement

EU TEXTUAL PROPOSAL

TRADE REMEDIES CHAPTER

***SECTION A:
ANTI-DUMPING AND COUNTERVAILING DUTIES***

And

***Section B
GLOBAL SAFEGUARD MEASURES***

Articles are numbered from 1 for ease of reading especially when an Article cross-refers to another provision of the same Chapter or Section. Final numbering will be revised once the chapter is integrated into the Agreement.

SECTION A:
ANTI-DUMPING AND COUNTERVAILING DUTIES

ARTICLE X.1
GENERAL PROVISIONS

1. Each Party¹ retains its rights and obligations arising from the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and from the WTO Agreement on Subsidies and Countervailing Measures.
2. For the purpose of this Section, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

ARTICLE X.2
TRANSPARENCY

1. Both Parties agree that trade remedies should be used in full compliance with the relevant WTO requirements and should be based on a fair and transparent system.
2. Both Parties shall ensure, immediately after any imposition of provisional measures and in any case before final determination is made, full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply measures. This is without prejudice to Article 6.5 of the WTO Agreement on Implementation of Article VI of GATT 1994 and Article 12.4 of the WTO Agreement on Subsidies and Countervailing Measures. Disclosures shall be made in writing, and allow interested parties sufficient time to make their comments
3. Provided it does not unnecessarily delay the conduct of the investigation, each interested party shall be granted the possibility to be heard in order to express their views during trade remedy investigations.

ARTICLE X.3

¹ X

CONSIDERATION OF PUBLIC INTEREST

Anti-dumping or countervailing measures may not be applied by a Party where, on the basis of the information made available during the investigation, it can clearly be concluded that it is not in the public interest to apply such measures. Public interest shall take into account the situation of the domestic industry, importers and their representative associations, representative users and representative consumer organizations, to the extent they have provided relevant information to the investigating authorities.

ARTICLE X.4 **LESSER DUTY RULE**

Should a Party decide to impose an anti-dumping or a countervailing duty, the amount of such duty shall not exceed the margin of dumping or countervailable subsidies, but it should be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.

ARTICLE X.5 **EXCLUSION FROM BILATERAL DISPUTE SETTLEMENT MECHANISM**

The provisions of this Section shall not be subject to the Dispute Settlement provisions of this Agreement.

ARTICLE X.6 **SPECIFIC PROVISIONS**

Both parties agree that green box payments are not price distortive and should therefore, in Principle, not be targeted by anti-dumping or anti-subsidy measures.

Section B **GLOBAL SAFEGUARD MEASURES**

ARTICLE X.7 **GENERAL PROVISIONS**

1. Each Party retains its rights and obligations under Article XIX of GATT 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.
2. For the purpose of this Section, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

ARTICLE X.8 **TRANSPARENCY**

1. Notwithstanding Article X.1, at the request of the other Party and provided the latter has a substantial interest, the Party initiating a safeguard investigation or intending to take safeguard measures shall provide immediately ad hoc written notification of all pertinent information leading to the initiation of a safeguard investigation or the imposition of global safeguard measures including on the provisional findings, where relevant. This is without prejudice to Article 3.2 of the WTO Agreement on Safeguards.

2. When imposing safeguard measures, the Parties shall endeavour to impose them in a way that least affects bilateral trade.

3. For the purpose of paragraph 2, if one Party considers that the legal requirements are met for the imposition of definitive safeguard measures, the Party intending to apply such measures shall notify the other Party and give the possibility to hold bi-lateral consultations. If no satisfactory solution has been reached within 30 days of the notification, the importing Party may adopt the appropriate measures to remedy the problem.

4. For the purposes of this Article, it is considered that a Party has a substantial interest when it is among the five largest suppliers of the imported product during the most recent three-year period of time, measured in terms of either absolute volume or value.

ARTICLE X.9

EXCLUSION FROM BILATERAL DISPUTE SETTLEMENT MECHANISM

The provisions of this Section referring to WTO rights and obligations shall not be subject to the Dispute Settlement provisions of this Agreement.