

**CHAPTER 7**  
**TRADE REMEDIES**

**SECTION A: BILATERAL SAFEGUARD MEASURES**

ARTICLE 7.1: DEFINITIONS

For the purposes of this Chapter:

**competent investigating authority** means:

- (a) for the State of Israel, the *Commissioner of Trade Levies*, in the *Ministry of Economy and Industry* or the corresponding unit in the *Ministry of Agriculture and Rural Development*; and
- (b) for Panama, the *General Directorate of Trade Remedies*, of the *Ministry of Commerce and Industries (Dirección General de Defensa Comercial del Ministerio de Comercio e Industrias)*,

or their successors;

**domestic industry** means the producers as a whole of the like or directly competitive goods of a Party or whose collective output of the like or directly competitive goods constitutes a major proportion of the total production of such goods;

**originating goods** means as referred in Chapter 3 (Rules of Origin);

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

**threat of serious injury** means **serious injury** that is clearly imminent, based on facts and not merely on allegation, conjecture or remote possibility;

**transition period** for each good means the period of tariff elimination for that good, with the addition of three (3) years.

ARTICLE 7.2: APPLICATION OF A SAFEGUARD

1. Subject to Article 7.7.2 during the transition period, if goods originating in one Party, as a result of the reduction or elimination of a customs duty provided for in this Agreement, is being imported into the other Party in such increased quantities, in absolute or relative terms, and under such conditions that the imports of the originating goods from that Party alone constitute a substantial cause of serious injury or threat of serious injury to a domestic industry, the importing Party may to the minimum level necessary to remedy the injury:

- (a) suspend the further reduction of any rate of a customs duty provided for under this Agreement on the goods; or

- (b) increase the rate of duty on the good to a level not to exceed the lesser of:
  - (i) the MFN applied rate of duty in effect at the time the measure is applied, or
  - (ii) the base rate as specified in the schedule to Annexes 2-B (Tariff Elimination for Industrial Goods), 2-C (Preferential Treatment for Fishery Goods), 2-D (Preferential Treatment for Agricultural Goods) or
- (c) establish an import quota for the goods concerned under the agreed concessions established in this Agreement. The import quota shall not reduce the quantity of imports to a level below the average of imports before the existence of serious injury.

#### ARTICLE 7.3: LIMITATIONS FOR APPLYING A BILATERAL SAFEGUARD MEASURE

1. Bilateral safeguard measures may not be applied in the first (1<sup>st</sup>) year of the transition period.

2. A bilateral safeguard measure shall not be applied except to the extent and for such time as may be necessary to prevent or remedy serious injury and to facilitate adjustment and, it shall not be applied for a period exceeding two (2) years.

However, this period may be extended to up to two (2) additional years if the competent authorities of the importing Party determine, in conformity with the procedures specified in Article 7.4, 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 four (4) years.

3. Neither Party shall apply a bilateral safeguard measure more than once against the same goods.

4. For perishable or seasonal goods no measure may be taken more than four (4) times within the initial two (2) years or for a cumulative period exceeding four (4) years provided in paragraph 2.

5. Upon termination of the bilateral safeguard measure, the rate of duty or quota shall be the level which would have been in effect had the measure not been imposed.

6. Bilateral safeguard measures may not be applied or maintained after the conclusion of the transition period. After this period, upon request by one of the Parties the Joint Committee shall evaluate whether to continue the bilateral safeguard measures mechanism included in this Chapter.

#### ARTICLE 7.4: INVESTIGATION PROCEDURES

1. A Party shall apply a safeguard measure only following an investigation by the Party's competent authority in accordance with its domestic legislation and 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 part of this Agreement, *mutatis mutandis*.
2. In the investigation described in paragraph 1, a 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 part of this Agreement, *mutatis mutandis*.

#### Article 7.5: PROVISIONAL BILATERAL SAFEGUARD 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 originating goods 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 twenty (20) days after the date it publishes the notice to submit evidence and views regarding the application of a provisional measure. A Party shall not apply a provisional measure until at least forty five (45) days after the date its competent authorities initiate an investigation.
3. The duration of any provisional measure shall not exceed two hundred (200) days, during which time the Party shall comply with the requirements of Article 7.4.

#### ARTICLE 7.6: NOTIFICATIONS AND CONSULTATIONS

1. A Party shall promptly notify the other Party, in writing upon:
  - (a) initiating a safeguard proceeding under this Chapter;
  - (b) making a finding of serious injury, or threat thereof, caused by increased imports under Article 7.2; and
  - (c) taking a preliminary or final decision to apply or extend a safeguard measure.
2. A Party shall provide to the other Party a copy of the public version of the report

of its competent investigating authority under Article 7.4.1.

3. If a Party whose goods is subject to a safeguard proceeding under this Chapter, request within ten (10) days from receipt of a notification as specified in paragraph 1(c) to hold consultations, the Party conducting that proceeding shall enter into consultations with the requesting Party with a view to finding an appropriate and mutually acceptable solution.

These consultations shall take place in the Joint Committee. In case of the absence of a decision or if no satisfactory solution is reached within twenty (20) days of the notification being made, the Party may apply the measures.

## **SECTION B: GLOBAL SAFEGUARD MEASURES**

### **ARTICLE 7.7: IMPOSITION OF GLOBAL SAFEGUARD MEASURES**

1. Each Party retains its rights and obligations in accordance with Article XIX of the GATT 1994 and the Safeguards Agreement.

2. No Party may apply, with respect to the same goods, at the same time:

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

3. In taking measures according to paragraph 1, a Party shall exclude imports of an originating product from the other Party if such imports do not in and of themselves cause or threaten to cause serious injury. The Party taking the measure shall demonstrate that such exclusion is in accordance with the jurisprudence of the WTO.

4. The following conditions and limitations shall apply to a proceeding that may result in global safeguard measures as referred to in paragraph 1:

- (a) the Party initiating such a proceeding shall, without delay, deliver to the other Party written notice thereof;
- (b) where, as a result of a measure, the rate of a customs duty is increased, the margin of preference under this Agreement shall be maintained;
- (c) upon the termination of the measure, the rate of a customs duty or quota shall be the rate which would have been in effect but for the measure;

## **SECTION C: ANTIDUMPING AND COUNTERVAILING MEASURES**

### **Article 7.8: ANTIDUMPING AND COUNTERVAILING MEASURES**

Each Party retains its rights and obligations under the Article VI of the GATT 1994, the Antidumping Agreement and the Subsidies Agreement with regard to the application of antidumping duties and countervailing measures.

#### **SECTION D: GENERAL PROVISION**

##### Article 7.9: SELECTION OF MEASURE

The Parties, in selecting measures relating to this Chapter, should give priority to those measures which cause minimal economic injury and do not create serious obstacles to the implementation of this Agreement.