

CHAPTER 6

TRADE REMEDIES

Section A: Safeguard Measures

Article 6.1: Definitions

For the purposes of this Section:

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

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

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;

transition period means, in relation to a particular good, the three-year period beginning on the date of entry into force of this Agreement, except where the tariff elimination for the good 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; and

transitional safeguard measure means a measure described in Article 6.3.2 (Imposition of a Transitional Safeguard Measure).

Article 6.2: Global Safeguards

1. Nothing in this Agreement affects the rights and obligations of the Parties under Article XIX of GATT 1994 and the Safeguards Agreement.
2. Except as provided in paragraph 3, nothing in this Agreement shall confer any rights or impose any obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.
3. A Party that initiates a safeguard investigatory process shall provide to the other Parties an electronic copy of the notification given to the WTO Committee on Safeguards under Article 12.1(a) of the Safeguards Agreement.

第 6 章

贸易救济

A 节：保障措施

第 6.1 条 定义

就本节而言：

国内产业指相对于一进口产品而言，在一缔约方领土内进行经营的同类产品或直接竞争产品的生产者全体，或指同类产品或直接竞争产品的总产量构成这些产品国内总产量主要部分的生产者；

严重损害指一国内产业状况的重大全面减损；

严重损害威胁指根据事实而非仅凭指控、推测或极小的可能性的，明显迫近的严重损害；

过渡期指对一特定产品而言，自本协定生效之日开始的 3 年期限，但产品关税取消发生在一更长时限内的情况除外，在这种情况下过渡期应为该产品关税逐步取消的期限；以及

过渡性保障措施指第 6.3.2 条(过渡性保障措施的实施)中所述一措施。

第 6.2 条 全球保障措施

1. 本协定中任何条款不影响缔约方在 GATT 1994 第 19 条和《保障措施协定》项下的权利和义务。
2. 除非第 3 款中另有规定，否则对于根据 GATT 1994 第 19 条和《保障措施协定》所采取的行动，本协定中任何条款不得对缔约方授予任何权利，也不得对其施加任何义务。
3. 发起保障措施调查的一缔约方应向其他缔约方提供其根据《保障措施协定》第 12 条第 1 款(a)项向 WTO 保障措施委员会提交通知的电子副本。

4. No Party shall apply or maintain a safeguard measure under this Chapter, to any product imported under a tariff rate quota (TRQ) established by the Party under this Agreement. A Party taking a safeguard measure under Article XIX of GATT 1994 and the Safeguards Agreement may exclude from the safeguard measure imports of originating goods under a TRQ established by the Party under this Agreement and set out in Appendix A to the Party's Schedule to Annex 2-D (Tariff Commitments), if such imports are not a cause of serious injury or threat thereof.

5. No Party shall apply or maintain two or more of the following measures, with respect to the same good, at the same time:

- (a) a transitional safeguard measure under this Chapter;
- (b) a safeguard measure under Article XIX of GATT 1994 and the Safeguards Agreement;
- (c) a safeguard measure set out in Appendix B to its Schedule to Annex 2-D (Tariff Commitments); or
- (d) an emergency action under Chapter 4 (Textiles and Apparel Goods).

Article 6.3: Imposition of a Transitional Safeguard Measure

1. A Party may apply a transitional safeguard measure described in paragraph 2, during the transition period only, if as a result of the reduction or elimination of a customs duty pursuant to this Agreement:

- (a) an originating good of another Party, individually, 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 cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive good; or
- (b) an originating good of two or more Parties, collectively, 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 cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive good, provided that the Party applying the transitional safeguard measure demonstrates, with respect to the imports from each such Party against which the transitional safeguard measure is applied, that imports of the originating good from each of those Parties have increased, in absolute terms or relative to domestic production,

4. 任何缔约方不得对在其根据本协定设立的关税配额项下进口的任何产品实施或维持本章下的保障措施。根据GATT 1994 第19条和《保障措施协定》实施一保障措施的一缔约方，可将在该缔约方根据本协定设立且列在该缔约方附件 2-D(关税承诺)关税减让表附录A中的关税配额项下进口的原产产品排除在保障措施之外，只要此类进口不是造成严重损害或严重损害威胁的原因。

5. 任何缔约方不得针对同一产品同时实施或维持下列措施中的两项或两项以上：

- (a) 根据本章实施的过渡性保障措施；
- (b) 根据 GATT 1994 第 19 条和《保障措施协定》实施的保障措施；
- (c) 附件 2-D(关税承诺)关税减让表附录B中所列的保障措施；或
- (d) 根据第 4 章(纺织品和服装)采取的紧急行动。

第 6.3 条 过渡性保障措施的实施

1. 如由于根据本协定削减或取消关税而出现下列情况，则一缔约方可实施本条第 2 款中所述的过渡性保障措施，但仅可在过渡期内实施：

- (a) 正在进口至一缔约方领土的另一缔约方的一原产产品，单独计算，绝对数量增加或与国内生产相比相对数量增加如此之大且情况如此严重，以至于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造成严重损害；或
- (b) 正在进口至一缔约方领土的两个或两个以上缔约方的一原产产品，合并计算，绝对数量增加或与国内生产相比的相对数量增加如此之大且情况如此严重，以至于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造成严重损害，条件是实施过渡性保障措施的缔约方证明，对于来自被实施保障措施的每一缔约方的进口，在本协定对这些缔约方生效后，来自这些缔约方中每一方

since the date of entry into force of this Agreement for those Parties.

2. If the conditions in paragraph 1 are met, the Party may, to the extent necessary to prevent or remedy serious injury and to facilitate adjustment:

- (a) suspend the further reduction of any rate of customs duty provided for under this Agreement on the good; or
- (b) increase the rate of customs duty on the good to a level not to exceed the lesser of:
 - (i) the most-favoured-nation applied rate of customs duty in effect at the time the measure is applied; and
 - (ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement for that Party.

The Parties understand that neither tariff rate quotas nor quantitative restrictions would be a permissible form of transitional safeguard measure.

Article 6.4: Standards for a Transitional Safeguard Measure

1. A Party shall maintain a transitional safeguard measure only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment.

2. That period shall not exceed two years, except that the period may be extended by up to one year if the competent authority of the Party that applies the measure determines, in conformity with the procedures set out in Article 6.5 (Investigation Procedures and Transparency Requirements), that the transitional safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment.

3. No Party shall maintain a transitional safeguard measure beyond the expiration of the transition period.

4. In order to facilitate adjustment in a situation where the expected duration of a transitional safeguard measure is over one year, the Party that applies the measure shall progressively liberalise it at regular intervals during the period of application.

5. On the termination of a transitional safeguard measure, the Party that applied the measure shall apply the rate of customs duty set out in the Party's

原产产品的进口的绝对数量或与国内生产相比的相对数量均增加。

2. 如第 1 款中的条件得到满足，则缔约方可在防止或补救严重损害并促进调整所必需的限度内：

- (a) 中止进一步削减本协定项下所规定的此产品的关税税率；或
- (b) 提高该产品的关税税率，水平不超过下列两者中的较低者：
 - (i) 在实施该措施时正在实施的最惠国实施税率；及
 - (ii) 紧接本协定对该缔约方生效之日的前一日实施的最惠国实施税率。

缔约方理解，关税配额或数量限制均不属于允许实施的过渡性保障措施的形式。

第 6.4 条 过渡性保障措施的标准

1. 一缔约方应仅在防止或补救严重损害并促进调整所必需的期限内维持一过渡性保障措施。

2. 该期限不得超过 2 年，但是如实施该措施的缔约方主管机关确定，在符合第 6.5 条(调查程序和透明度要求)中所列程序的情况下，过渡性保障措施对于防止或补救严重损害并促进调整仍然必要，则该期限可延长最长达 1 年。

3. 任何缔约方不得在过渡期期满后维持一过渡性保障措施。

4. 在一过渡性保障措施的预计期限超过 1 年的情况下，为促进调整，实施该措施的缔约方应在实施期内按固定时间间隔逐步放宽该措施。

5. 在一过渡性保障措施终止时，实施该措施的缔约方应实施其附件 2-D(关税承诺)关税减让表中所列关税税率，如同该缔约

Schedule to Annex 2-D (Tariff Commitments) as if that Party had never applied the transitional safeguard measure.

6. No Party shall apply a transitional safeguard measure more than once on the same good.

Article 6.5: Investigation Procedures and Transparency Requirements

1. A Party shall apply a transitional safeguard measure only following an investigation by the Party's competent authorities in accordance with Article 3 and Article 4.2(c) of the Safeguards Agreement; to this end, Article 3 and Article 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, the Party shall comply with the requirements of Article 4.2(a) and Article 4.2(b) of the Safeguards Agreement; to this end, Article 4.2(a) and Article 4.2(b) of the Safeguards Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 6.6: Notification and Consultation

1. A Party shall promptly notify the other Parties, in writing, if it:

- (a) initiates a transitional safeguard investigation under this Chapter;
- (b) makes a finding of serious injury, or threat of serious injury, caused by increased imports, as set out in Article 6.3 (Imposition of a Transitional Safeguard Measure);
- (c) takes a decision to apply or extend a transitional safeguard measure; and
- (d) takes a decision to modify a transitional safeguard measure previously undertaken.

2. A Party shall provide to the other Parties a copy of the public version of the report of its competent authorities that is required under Article 6.5.1 (Investigation Procedures and Transparency Requirements).

3. When a Party makes a notification pursuant to paragraph 1(c) that it is applying or extending a transitional safeguard measure, that Party shall include in that notification:

- (a) evidence of serious injury, or threat of serious injury, caused by increased imports of an originating good of another Party or Parties

方从未实施该过渡性保障措施。

6. 任何缔约方不得对同一产品实施过渡性保障措施超过一次。

第 6.5 条 调查程序和透明度要求

1. 一缔约方只有在其主管机关依照《保障措施协定》第 3 条和第 4 条第 2 款(c)项进行调查后,方可实施一过渡性保障措施;为此,《保障措施协定》第 3 条和第 4 条第 2 款(c)项在细节上作必要修改后纳入本协定并成为本协定一部分。

2. 在开展第 1 款中所述调查时,缔约方应遵守《保障措施协定》第 4 条第 2 款(a)项和(b)项的要求;为此,《保障措施协定》第 4 条第 2 款(a)项和(b)项在细节上作必要修改后纳入本协定并成为本协定一部分。

第 6.6 条 通知和磋商

1. 如一缔约方采取下列行动,则应以书面形式迅速通知其他缔约方:

- (a) 根据本章发起一过渡性保障措施调查;
- (b) 按第 6.3 条(过渡性保障措施的实施)中所列,作出进口增加造成严重损害或严重损害威胁的调查结果;
- (c) 作出实施或延长一过渡性保障措施的決定;以及
- (d) 作出修改一已实施的过渡性保障措施的決定。

2. 一缔约方应向其他缔约方提供一份其主管机关根据第 6.5.1 条(调查程序和透明度要求)所要求作出的报告的公开版本的副本。

3. 如一缔约方根据第 1 款(c)项作出关于正在实施或延长一过渡性保障措施的通知,则该缔约方应在通知中包括:

- (a) 关于根据本协定削减或取消关税所导致的另一个或

as a result of the reduction or elimination of a customs duty pursuant to this Agreement;

- (b) a precise description of the originating good subject to the transitional safeguard measure including its heading or subheading under the HS Code, on which the schedules of tariff commitments in Annex 2-D (Tariff Commitments) are based;
- (c) a precise description of the transitional safeguard measure;
- (d) the date of the transitional safeguard measure's introduction, its expected duration and, if applicable, a timetable for progressive liberalisation of the measure; and
- (e) in the case of an extension of the transitional safeguard measure, evidence that the domestic industry concerned is adjusting.

4. On request of a Party whose good is subject to a transitional safeguard proceeding under this Chapter, the Party that conducts that proceeding shall enter into consultations with the requesting Party to review a notification under paragraph 1 or any public notice or report that the competent investigating authority issued in connection with the proceeding.

Article 6.7: Compensation

1. A Party applying a transitional safeguard measure shall, after consultations with each Party against whose good the transitional safeguard measure is applied, provide mutually agreed trade liberalising compensation in the form of concessions that have substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the transitional safeguard measure. The Party shall provide an opportunity for those consultations no later than 30 days after the application of the transitional safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on trade liberalising compensation within 30 days, any Party against whose good the transitional safeguard measure is applied may suspend the application of substantially equivalent concessions to the trade of the Party applying the transitional safeguard measure.

3. A Party against whose good the transitional safeguard measure is applied shall notify the Party applying the transitional safeguard measure in writing at least 30 days before it suspends concessions in accordance with paragraph 2.

4. The obligation to provide compensation under paragraph 1 and the right to suspend concessions under paragraph 2 terminates on the termination of the transitional safeguard measure.

多个缔约方的一原产产品进口增加而造成严重损害或严重损害威胁的证据；

- (b) 关于实施过渡性保障措施的原产产品的精确描述，包括附件 2-D(关税承诺)关税减让表所根据的该产品的 HS 品目或子目；
- (c) 过渡性保障措施的精确定描述；
- (d) 实施过渡性保障措施的日期和预计期限，且如适用，该措施逐步放宽时间表；以及
- (e) 对于过渡性保障措施延长的情况，关于有关国内产业正在调整的证据。

4. 应其产品被实施本章项下过渡性保障措施的一缔约方请求，正在开展有关程序的缔约方应与该提出请求的缔约方进行磋商，以审议根据第 1 款作出的通知或调查机关发布的与调查程序有关的任何公告或报告。

第 6.7 条 补偿

1. 实施过渡性保障措施的一缔约方经与其产品被实施过渡性保障措施的每一缔约方进行磋商，应提供双方同意的贸易自由化补偿，形式为具有实质相等的贸易效果的减让或等于预计该过渡性保障措施所导致的额外关税的价值的减让。该缔约方应不迟于实施过渡性保障措施后 30 天提供进行这些磋商的机会。

2. 如根据第 1 款进行的磋商在 30 天内未能就贸易自由化补偿达成协议，则其产品被实施过渡性保障措施的任何缔约方可对实施该过渡性保障措施的缔约方的贸易中止实施实质相等的减让。

3. 其产品被实施过渡性保障措施的一缔约方应在其依照第 2 款中止减让至少 30 天前，书面通知实施过渡性保障措施的缔约方。

4. 第 1 款下提供补偿的义务和第 2 款下中止减让的权利随该过渡性保障措施的终止而终止。

Section B: Antidumping and Countervailing Duties

Article 6.8: Antidumping and Countervailing Duties

1. Each Party retains its rights and obligations under Article VI of GATT 1994, the AD Agreement and the SCM Agreement.
2. Nothing in this Agreement shall confer any rights or impose any obligations on the Parties with regard to proceedings or measures taken pursuant to Article VI of GATT 1994, the AD Agreement or the SCM Agreement.
3. No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Section or Annex 6-A (Practices Relating to Antidumping and Countervailing Duty Proceedings).

B 节：反倾销和反补贴税

第 6.8 条 反倾销和反补贴税

1. 每一缔约方保留其在 GATT 1994 第 6 条、《反倾销协定》和《补贴与反补贴措施协定》项下的权利和义务。
2. 对于根据 GATT 1994 第 6 条、《反倾销协定》或《补贴与反补贴措施协定》进行的调查程序或实施的措施，本协定中任何条款不得授予缔约方任何权利，也不得对其施加任何义务。
3. 任何缔约方不得就本节或附件 6-A(与反倾销和反补贴调查相关的做法)所产生的任何事项援用第 28 章(争端解决)下的争端解决。

Annex 6-A

Practices Relating to Antidumping and Countervailing Duty Proceedings

The Parties recognise, in Article 6.8 (Antidumping and Countervailing Duties), the right of the Parties to apply trade remedy measures consistent with Article VI of GATT 1994, the AD Agreement and the SCM Agreement, and further recognise the following practices¹ as promoting the goals of transparency and due process in trade remedy proceedings:

- (a) Upon receipt by a Party's investigating authorities of a properly documented antidumping or countervailing duty application with respect to imports from another Party, and no later than seven days before initiating an investigation, the Party provides written notification of its receipt of the application to the other Party.
- (b) In any proceeding in which the investigating authorities determine to conduct an in-person verification of information that is provided by a respondent,² and that is pertinent to the calculation of antidumping duty margins or the level of a countervailable subsidy, the investigating authorities promptly notify each respondent of their intent, and:
 - (i) provide to each respondent at least 10 working days advance notice of the dates on which the authorities intend to conduct an in-person verification of the information;
 - (ii) at least five working days prior to an in-person verification, provide to the respondent a document that sets out the topics the respondent should be prepared to address during the verification and that describes the types of supporting documentation to be made available for review; and

¹ The practices included in this Annex do not constitute a comprehensive list of practices relating to antidumping and countervailing duty proceedings. No inference shall be drawn from the inclusion or exclusion of a particular aspect of such proceedings in this list.

² For the purposes of this paragraph, "respondent" means a producer, manufacturer, exporter, importer, and, where appropriate, a government or government entity, that is required by a Party's investigating authorities to respond to an antidumping or countervailing duty questionnaire.

附件 6-A

与反倾销和反补贴调查相关的做法

在第 6.8 条(反倾销和反补贴税)中, 缔约方认识到实施符合 GATT 1994 第 6 条、《反倾销协定》和《补贴与反补贴措施协定》的贸易救济措施的权利, 并进一步认识到下列做法可促进贸易救济调查程序中的透明度和正当程序目标的实现¹:

- (a) 一缔约方调查机关在收到的针对另一缔约方进口产品征收反倾销或反补贴税的附有适当证明文件的申请后, 不迟于发起调查前 7 天, 该缔约方向该另一缔约方提供关于收到申请的书面通知。
- (b) 在任何调查程序中, 如调查机关确定对应诉方²提供的信息进行当面核查, 且该信息与反倾销税幅度或反补贴水平的计算相关, 则调查机关将其意向迅速通知每一应诉方, 并:
 - (i) 向每一应诉方至少提前 10 个工作日提供关于主管机关拟开展当面核查信息的日期;
 - (ii) 在一当面核查前至少 5 个工作日, 向应诉方提供一份文件, 其中列出应诉方在核查中应准备作出回应的题目并说明需要提供供审核的证明文件类型; 以及

¹ 本附件中所包括的做法不构成与反倾销和反补贴调查程序相关做法的全面清单。不得根据该清单中包含或排除此类调查程序的某一特定方面而作出推断。

² 就本款而言, “应诉方”指应一缔约方调查机关要求对反倾销或反补贴问题单作出答复的生产商、制造商、出口商、进口商, 且如适当, 政府或政府实体。

- (iii) after an in-person verification is completed, and subject to the protection of confidential information³, issue a written report that describes the methods and procedures followed in carrying out the verification and the extent to which the information provided by the respondent was supported by the documents reviewed during the verification. The report is made available to all interested parties in sufficient time for the parties to defend their interests.
- (c) A Party's investigating authorities maintain a public file for each investigation and review that contains:
- (i) all non-confidential documents that are part of the record of the investigation or review; and
 - (ii) to the extent feasible without revealing confidential information, non-confidential summaries of confidential information that is contained in the record of each investigation or review. To the extent that individual information is not susceptible of summarisation, it may be aggregated by the investigating authority.

The public file and a list of all documents that are contained in the record of the investigation or review are physically available for inspection and copying during the investigating authorities' normal business hours or electronically available for download.⁴

- (d) If, in an antidumping or countervailing duty action that involves imports from another Party, a Party's investigating authorities determine that a timely response to a request for information does not comply with the request, the investigating authorities inform the interested party that submitted the response of the nature of the deficiency and, to the extent practicable in light of time limits established to complete the antidumping or countervailing duty action, provide that interested party with an opportunity to remedy or explain the deficiency. If that interested party submits further information in response to that deficiency and the investigating authorities find that the response is not satisfactory, or that the response is not submitted within the applicable time limits, and if the investigating authorities disregard all or part of the original and

³ For the purposes of this Annex, "confidential information" includes information which is provided on a confidential basis and which is by its nature confidential, for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information.

⁴ Charges for the copies, if any, are limited in amount to the approximate cost of the services rendered.

- (iii) 在当面核查结束后，在保护机密信息³的前提下，发布一份书面报告，说明实施核查过程中所遵循的方法和程序及应诉方提供的信息在何种程度上得到核查中所审核文件的支持。该报告应使所有利害关系方可获得并提供充分时间供各方为其利益而进行辩护。
- (c) 一缔约方的调查机关针对每一项调查和复审案件设立公开文档，其中包含：
- (i) 属调查或复审记录一部分的所有非机密文件；及
 - (ii) 在可行且不泄露机密信息的限度内，每一项调查或复审记录中所含机密信息的非机密摘要。在单项信息无法进行摘要的情况下，可由调查机关加以合并。

公开文档和调查或复审记录中所含所有文件的清单可在调查机关正常工作时间内供现场查阅和复印或可以电子方式下载。⁴

- (d) 如在一涉及另一缔约方进口的反倾销或反补贴行动中，一缔约方的调查机关确定对一信息请求所作的及时答复并不符合该请求，则调查机关告知提交答复的利害关系方缺陷的性质，并在考虑对完成反倾销或反补贴税调查所设时限的可行限度内，向利害关系方提供补救或说明该缺陷的机会。如该利害关系方针对该缺陷提交进一步信息而调查机关认为答复不能令其满意，或该答复未在适用的时限内提交，且如调查机关全部或部分不采购初次答复和后

³ 就本附件而言，“机密信息”包括在保密基础上提供的信息和属机密性质的信息，例如信息的披露会给予一竞争者显著竞争优势，或由于信息的披露会给信息提供者或给信息提供者自其获得信息的人带来严重不利影响。

⁴ 复印收费(如有)限定在提供服务所需的近似成本以内。

subsequent responses, the investigating authorities explain in the determination or other written document the reasons for disregarding the information.

- (e) Before a final determination is made, the investigating authorities inform all interested parties of the essential facts that form the basis of the decision whether to apply definitive measures. Subject to the protection of confidential information, the investigating authorities may use any reasonable means to disclose the essential facts, which includes a report summarising the data in the record, a draft or preliminary determination or some combination of those reports or determinations, to provide interested parties an opportunity to respond to the disclosure of essential facts.

续答复，则调查机关在裁定或其他书面文件中说明不采购信息的理由。

- (e) 在作出最终裁定前，调查机关将告知所有利害关系方构成其作出是否实施最终措施决定所根据的基本事实。在保护机密信息的前提下，调查机关可使用任何合理方式披露该基本事实，其中包括关于记录中数据的摘要报告、裁定初稿或初步裁定，或这些报告或裁定的结合，并向利害关系方提供对披露的基本事实作出回应的机会。