

CHAPTER 8

Emergency Action

Article 8-1: Article XIX of the GATT 1994 and the Agreement on Safeguards of the WTO

Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the *Agreement on Safeguards* of the WTO Agreement.

Article 8-2: Bilateral Emergency Actions

1. Subject to paragraphs 2 through 4, and during the transition period only, if an originating good, as a result of the reduction or elimination of a duty provided for in this Agreement, is being imported into the territory of the other Party in such increased quantities, in absolute terms, and under such conditions that the imports of the good from that Party alone constitute a principal cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the Party into whose territory the good is being imported may to the minimum extent necessary to remedy or prevent the injury:

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

2. The following conditions and limitations shall apply to a proceeding that may result in emergency action under paragraph 1:

- (a) a Party shall, without delay, deliver to the other Party written notice of, and a request for consultations regarding, the institution of a proceeding that could result in the application of emergency action against an originating good;
- (b) any such action shall be initiated no later than one year after the date of institution of the proceeding;
- (c) no action may be maintained:
 - (i) for a period exceeding three years, or
 - (ii) beyond the expiration of the transition period, except with the consent of the Party against whose good the action is taken;
- (d) no emergency action may be taken by a Party against the same originating good more than twice during the transition period provided that the period of non-application is at least two years;
- (e) on the termination of an action, the rate of duty shall be the rate that, according to the Party's Schedule to Annex 2-3 for the staged elimination of the tariff, would have been in effect but for the action;
- (f) In order to facilitate the adjustment in a situation where the expected duration of an emergency action is over one year, the Party taking the action shall progressively liberalize it at regular intervals during the period of application.

3. The Party taking an action under this Article shall provide to the other Party mutually agreed 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 action.

4. If the Parties are unable to agree on the compensation referred to in paragraph 3, the Party against whose good the action is taken may take tariff action having trade effects substantially equivalent to the trade effects of the emergency action over the full period of its application. The Party taking the tariff action shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects.

5. The right to take the tariff action referred to in paragraph 4 shall not be exercised for the first 12 months that an emergency action is in effect, provided that the Parties consult actively with a view to finding mutually agreed compensation. Until such time as compensation is mutually agreed, or until the 12 month period has expired, the Joint Commission shall meet every three months at the request of the Party against whose goods the action is taken to discuss the continued application of the action and with a view to finding mutually agreed compensation.

Article 8-3: Administration of Emergency Action Proceedings

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

2. Each Party shall entrust determinations of serious injury, or threat thereof, in an emergency action proceeding to a competent investigating authority. Negative injury determinations shall not be subject to modification. The competent investigating authority empowered under domestic law to conduct such proceedings shall be provided with the necessary resources to enable it to fulfil 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 its competent investigating authority in accordance with Articles 3 and 4.2 of the *Agreement on Safeguards* of the WTO Agreement.

Article 8-4: Definitions

- (a) **competent investigating authority** means:
 - (i) with respect to Canada, the Canadian International Trade Tribunal, or its successor, notified to Jordan through diplomatic channels,
 - (ii) with respect to Jordan, the National Production Protection Directorate (NPPD) at the Ministry of Industry and Trade, or its successor, notified to Canada through diplomatic channels.
- (b) **domestic industry** means with respect to an imported good, the domestic producers as a whole of the like or directly competitive good or those domestic producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of such good;
- (c) **emergency action** means any emergency action described in Article 8-2;
- (d) **serious injury** means a significant overall impairment of a domestic industry;
- (e) **principal cause** means an important cause which is not less important than any other cause;
- (f) **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
- (g) **transition period** means the ten (10) year period beginning on the entry into force of this Agreement unless extended by mutual agreement of the Parties or by decision of the Joint Commission.