

CHAPTER 5

TRADE REMEDIES

ARTICLE 5.1

Scope

1. This Chapter shall apply to any trade remedies actions¹ that are taken by each Party's competent authority.
2. For the purposes of this Chapter, competent authority means:
 - (a) for New Zealand, the New Zealand Ministry of Business, Innovation and employment or its successor;
 - (b) for UAE, the Ministry of Economy or its successor.

ARTICLE 5.2

Anti-Dumping and Countervailing Measures

1. The Parties reaffirm their rights and obligations under Article VI and Article XVI of GATT 1994, the Anti-Dumping Agreement, and the SCM Agreement.
2. The Parties recognize the right to apply measures consistent with Article VI of the GATT 1994, the Anti-Dumping Agreement, and the SCM Agreement, and the importance of promoting transparency.
3. Except as otherwise provided in this Chapter, nothing in this Agreement shall confer any additional rights or impose any additional obligations on the Parties with regard to proceedings or measures taken pursuant to Article VI of GATT 1994, the Anti-Dumping Agreement, or the SCM Agreement.
4. After receipt by a Party's investigating authority of a properly documented application for an anti-dumping investigation or a countervailing duty investigation with respect to imports of a good originating in the territory of the other Party, the Party shall provide written notice to the other Party of its receipt of the application at the earliest possible opportunity and no later than 7 days before initiating the investigation.
5. As soon as possible after accepting a properly documented application for a countervailing duty investigation with respect to imports of a good originating in the

¹ For greater certainty, the trade remedies actions can include investigations and measures.

territory of the other Party, and in any event before initiating an investigation, the Party shall invite the other Party for consultations with the aim of clarifying the situation as to the matters referred to in the application and arriving at a mutually agreed solution.

6. The investigating authority of each Party shall ensure, before a final determination is made, the disclosure of all essential facts under consideration which form the basis for the decision whether to apply definitive measures. This is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement. Disclosures shall be made in writing and allow interested parties² sufficient time to make their comments.

7. Interested parties should be granted the right to express their views during an anti-dumping or a countervailing investigation including:

- (a) an ample opportunity to present in writing all evidence which they consider relevant; and
- (b) the possibility to be heard upon a request,

provided that the granting of that right does not prevent the investigation from proceeding expeditiously.

8. The Parties shall observe the following practices in anti-dumping or countervailing cases between them in order to enhance transparency in the implementation of the relevant WTO Agreements:

- (a) when dumping margins are established, assessed, or reviewed under Articles 2, 9.3, 9.5, and 11 of the Anti-Dumping Agreement, regardless of the comparison bases under Article 2.4.2 of the Anti-Dumping Agreement, all individual margins, whether positive or negative, should be counted toward the average;
- (b) if a decision is taken to impose an anti-dumping duty pursuant to Article 9.1 of the Anti-Dumping Agreement, the Party taking such a decision shall apply the “lesser duty” rule by imposing a duty which is less than the dumping margin through the means provided for in the Party’s domestic laws and regulations;
- (c) if a Party’s investigating authority determines that a timely response to a request for information does not comply with the request, the investigating authority shall inform the interested party that submitted the response of the nature of the deficiency and, to the extent practicable in light of the time limit established to complete the anti-dumping investigation or review, or the countervailing investigation or review, provide that interested party with an opportunity to

² For the purposes of this Article, “interested parties” shall be defined as per Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement.

remedy or explain the deficiency. If, after being informed of a deficient response, an interested party submits a further response and the investigating authority finds that the response is not satisfactory, or that the response is not submitted within the applicable time limit, and if the investigating authority disregards all or part of the original and subsequent responses, the investigating authority shall explain in the determination or other written document the reasons for disregarding the information.

9. When imports from more than one country are simultaneously subject to anti-dumping or countervailing duty investigation, a Party shall examine, with due care, whether the cumulative assessment of the effect of the imports from the other Party is appropriate in light of the conditions of competition between the imported goods and the conditions of competition between the imported goods and the like domestic goods.

10. Throughout a countervailing duty investigation, the other Party shall be afforded a reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.

ARTICLE 5.3

Global Safeguard Measures

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement. Except as otherwise stipulated in this Article, 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.

2. The Parties affirm their existing rights and obligations with respect to each other under Article 9 of the Safeguard Agreement³.

3. Neither Party shall apply, with respect to the same product, at the same time a measure under Article XIX of GATT 1994 and the Safeguards Agreement, or Article 5 of the Agreement on Agriculture in Annex 1A to the WTO Agreement.

4. In taking measures under Article XIX of GATT 1994 and the Safeguards Agreement, a Party may exclude imports of an originating good from the other Party if such imports do not in and of themselves cause or threaten serious injury.

³ For greater certainty, where, as a result of a global safeguard measure, a safeguard duty is imposed by a Party, it shall exclude imports of an originating good from the other Party in accordance with Article 9.1 of the WTO Agreement on Safeguards and the development status of the other Party at the WTO.

5. A Party that initiates a safeguard investigation shall provide to the other Party an electronic copy of the notification given to the WTO Committee on Safeguards under Article 12.1.a of the Safeguards Agreement.

ARTICLE 5.4 **Contact Points and Cooperation**

1. The Parties shall endeavour to encourage cooperation on trade remedies between the relevant authorities of each Party who have responsibility for trade remedy matters within the context of this Chapter.

2. All communication between the Parties on any matter covered by this Chapter shall be conducted through the following Contact Points:

- (a) for New Zealand, the Ministry of Business, Innovation and Employment (traderemedies@mbie.govt.nz) or its successor; and
- (b) for the UAE: Ministry of Economy, Foreign Trade Sector. (Antidumping@economy.ae) or its successor.

3. Each Party shall promptly notify the other Party of any change of its Contact Point.

ARTICLE 5.5 **Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.