

Summary of U.S.-Chile FTA Safeguards Chapter

This Chapter establishes a bilateral safeguard mechanism that permits a party to impose a temporary safeguard measure when a good of the other party is being imported in such increased quantities and under such conditions as to constitute a substantial cause of serious injury or threat of serious injury to a domestic industry. It does not affect the ability of each party to take global safeguard actions. The Chapter is generally similar to Chapter 8 of the NAFTA. Special safeguards provisions, which apply to textile and agricultural products, are provided for elsewhere in the agreement.

1. Bilateral Actions

Article 1 permits each party to take bilateral safeguard actions during the transition period if, as a result of the reduction or elimination of a duty under the agreement, an originating good is being imported in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive product. If injury or threat is found, the importing party may suspend any further reduction in duties on that good, or may increase the rate of duty on the good to a level not to exceed the lesser of the current most-favored-nation (MFN) applied rate of duty or the MFN applied rate of duty in effect immediately preceding the entry into force of the agreement.

Article 2 provides that a party may impose a measure for up to three years. Where the measure will be in place for more than one year, the party must progressively liberalize the measure at regular intervals. A party may impose a bilateral measure or a global measure, but not both at the same time. No measures are permitted after expiration of the transition period.

Article 3 incorporates by reference the procedural and substantive investigation requirements set forth in Articles 3.1, 4.2(a), and 4.2(c) of the WTO Safeguards Agreement. It also requires investigating authorities to maintain procedures to protect confidential information submitted during an investigation.

Article 4 provides that the investigating party must notify the other party when it initiates an investigation or makes an affirmative finding.

Article 5 provides that a party that imposes a bilateral safeguard measure must provide 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 measure. If no agreement is reached on compensation within 30 days, the other party may suspend the application of substantially equivalent trade concessions.

Article 6 defines relevant terms.

2. Global Safeguards

Article 7 maintains each country's right to take remedial action against imports from all sources under GATT Article XIX and the WTO Safeguards Agreement, without providing additional rights or obligations.