

Observação

À luz do crescente interesse do público nas negociações recentemente concluídas entre o MERCOSUL e a União Europeia, os governos dos países do MERCOSUL decidiram publicar os textos do pilar comercial, a fim de garantir tanto o efetivo exercício do direito de acesso à informação pública quanto a transparência da gestão pública.

Esses textos são publicados, no entanto, apenas para fins informativos e podem sofrer modificações adicionais em decorrência do processo de revisão legal a que estarão sujeitos, sem prejuízo dos compromissos assumidos.

Os textos só serão definitivos quando o Acordo for assinado. O Acordo será vinculante para as Partes, conforme o direito internacional, somente após a conclusão dos procedimentos legais internos necessários para a entrada em vigor.

CHAPTER TRADE DEFENSE AND GLOBAL SAFEGUARDS

Section I: General Principles

Article 1 – Relationship with the WTO

1. The provisions in this Chapter are without prejudice to the rights and obligations established under the Agreements on Implementation of Article VI of GATT 1994 (the Anti-dumping Agreement, hereinafter referred to as the "ADA"), the Agreement on Subsidies and Countervailing Measures (hereinafter referred to as "ASCM") the Agreement on Safeguards (hereinafter referred to as "ASFG") and the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as "DSU").
2. The Parties shall exempt bilateral trade subject to preferential treatment from the application of the Special Agricultural Safeguard of the WTO Agreement on Agriculture.
3. The preferential rules of origin under this Agreement shall not apply to this Chapter.

Article 2 – Transparency

1. The Parties agree that trade defense and safeguard measures should be used in full compliance with the relevant WTO requirements and should be based on a fair and transparent system. For this purpose the Parties shall ensure that as soon as possible after the imposition of provisional measures, interested Parties shall be given full access to the facts that are the basis of the determinations, the injury assessment, calculations of the dumping and subsidies margins and causality. In addition, before the final determination, there must be a full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply measures. The above is without prejudice to Article 6.5 of the ADA Article 12.4 of the ASCM and Article 3.2 of the ASFG.
2. All the information referred to in paragraph 1 shall be sent in writing, preferably in electronic version and Parties should be given enough time to make comments. In the case of Parties whose investigating authorities keep electronic case files, all the information referred to in paragraph 1 may be made available through digital access.

Section II – Anti-Dumping and Countervailing Measures

Article 3

1. The Parties agree to:
 - (a) Analyze with special care proposals of price undertakings made by exporters of the other Party;
 - (b) Favour the imposition of a duty that is less than the margin of dumping or subsidy if that level is adequate to remove the injury to the domestic industry;
 - (c) Analyze with special care requests for the extension of measures in force against exporters of the Parties;
 - (d) Take into consideration the information provided by industrial users of the product under investigation, importers and, if applicable, representative consumer organisations in the context of the article 6.12 of the ADA and article 12.10 of the ASCM ; and

Section III: Global Safeguards

Article 4 – Transparency on Global Safeguards

1. At the request of the exporting Party, and provided the latter has substantial interest as exporter of the product concerned as defined in paragraph 2.3, the Party initiating a safeguard investigation or intending to adopt provisional or definitive safeguard measures shall immediately provide:

- a. the information referred to in Article 12.2 of the WTO Agreement on Safeguards, in the format prescribed by the WTO Committee on Safeguards;
- b. the public version of the complaint filed by the domestic industry, where relevant; and
- c. a public report setting forth the findings and reasoned conclusions on all pertinent issues of fact and law considered in the safeguard investigation. The public report shall include an analysis that attributes injury to the factors causing it and set out the method used in defining the safeguard measures.

2. When information is provided under this Article, the importing Party shall offer to hold informal consultations with the exporting Party in order to review the information provided.

3. For the purpose of this Article, it is considered that a party has a substantial interest when it is among the five largest suppliers of the imported products during the most recent three years period of time, measured in terms of either absolute volume or value.

Article 5 – Imposition of Definitive Measures

1. When imposing safeguard measures, a Party adopting safeguard measures shall endeavour to impose them in a way that least affects bilateral trade.

2. The importing Party shall offer to hold informal consultations with the exporting Party in order to review the matter referred to in the paragraph 1. The importing Party shall not adopt measures until 30 days have elapsed since the date the offer to consult was made.

Section IV: Dispute Settlement

Article 6

1. The provisions in this Chapter shall not be subject to the bilateral dispute settlement mechanism of this Agreement.